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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, November 4, 2003, at 12:30 p.m.

Senate

FRIDAY, OCTOBER 31, 2003

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, our strength and refuge, who shows us unfailing love, we see Your majesty in the beauty of the Earth and the glory of the skies. Your voice speaks in the thunder and You form the mighty oak. You reign as King forever, blessing Your people with peace.

Lord, protect us from destructive forces and rescue us from setbacks that ambush our dreams. Rise and help us, and we will sing about Your power. Let the world come to know Your faithfulness, which is as enduring as the heavens.

Teach our Senators to walk in Your ways and to trust Your promises, which cannot fail. Bless the members of their families, who share the challenges of their work. We wait upon You to supply our needs and to quench our thirst for purpose. Blessed be Your name forever and ever. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore 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.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will be in a period of morning business to allow Senators to speak for up to 10 minutes each. As I announced last night, there will be no rollcall votes during today's session.

Last evening, after a lengthy session with 14 rollcall votes, we were able to finish work on a number of items. We were able to pass the Healthy Forests bill as well as complete action last night on the Foreign Operations appropriations bill. We were also able to reach agreements on a number of other important matters, including the Iraq-Afghanistan supplemental, the Interior appropriations conference report, the continuing resolution, as well as the Internet tax moratorium legislation.

Earlier in the day, the Senate considered the climate change bill and failed to invoke cloture on the nomination of Charles Pickering.

As a reminder, the next vote will occur on Monday at some point, most likely between 5:30 and 6 o'clock. That vote will be on the adoption of the conference report to accompany the Interior appropriations. Also on Monday, the Senate will consider the Iraq supplemental conference report; however, that conference report will be completed without a rollcall vote.

I also remind my colleagues that earlier in the week we reached a consent

on a fair credit reporting bill. I expect the Senate would turn to that measure on Tuesday.

I mentioned a few moments ago the Internet tax moratorium bill. What we agreed to last night was that we would address that bill next week, and as part of that agreement, that we would not address it prior to Thursday. With the current extension expiring, it was my hope that the Senate could have finished that bill last night or today, prior to that deadline, but a few Members have raised concerns and desire amendments. Thus, it will be our intent to finish that bill at the end of next week, rather than this week. The agreement, again, will lead us to turn to that on Thursday, and I expect, after giving Senators the opportunity to offer, hopefully, relevant amendments, that we would move that bill toward passage on either Thursday or Friday.

Another item that will demand the Senate's attention next week is the Syria accountability bill. Senator SANTORUM has been working on getting that measure cleared, and we hope to schedule that vote very early next week.

Finally, I add we will continue to consider the available appropriations conference reports as they become available.

Having said all that, you can see that next week is shaping up to be another very active week of floor action. With Members' continued cooperation, we can finish our business and still adjourn at the earliest opportunity this year. I do thank Members for their cooperation and participation in allowing

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



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us to proceed with the business of the Senate.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The deputy Democratic leader.

Mr. REID. Mr. President, one question I have gotten over here several times, and I have raised this issue on the floor, Senator MCCONNELL has said on two separate occasions that a week from this Monday, we will be working. People are changing schedules and all.

My personal feeling is we should be working. I hope the leader, whatever the final decision—I understand the preliminary decision is we would be working a week from Monday, more so than just 5 o'clock at night.

If we are to have any hope of getting out of here in time for important events such as people's birthdays and events of that nature, we have to really move forward. I say that actually recognizing the Presiding Officer has a very important date coming up—it is the 18th or 20th, or something like that.

Seriously, if we can have a signoff on what you are going to do that day, it would be important to everybody.

Mr. FRIST. Mr. President, in response, through the Chair, the intention right now is to work Monday, make that a full working day. As we finished last night at about midnight, a lot of people were saying we can't work any harder than what we are doing right now in terms of taking these bills one by one, and that is the way we are going to have to work, unfortunately—or fortunately—in order to complete what we have before us; thus the intentions for the day before Veterans Day.

The real issue, obviously, for our colleagues, because they understand, but for others who are listening to understand, Veterans Day is a day we want to be able to honor, and a lot of people will have to change their plans because they have to be flying to the west coast. But I want to make it clear our intention is to stay here and work. In truth, that is what the people around the country expect us to do. We have work right now. We have the Nation's business before us, in terms of the appropriations bills, the many conference reports that we are waiting for, the very important conference in terms of energy and Medicare, which is underway. So it is critical that we continue work on that Monday.

It is my intention, of course, on Veterans Day, to be able to respect that day accordingly, as we go forward. I think we will be able to announce more about that in the early part of next week. The schedule constantly changes. I was very hopeful we could complete this Internet tax issue. That was really our goal. We worked very hard, but, again, out of consideration for our Members, we have had to move that forward a week. We intend to finish that the end of next week, and it is critical we do so.

It is important for our colleagues to understand because about this time of the year everybody is sort of sitting and waiting to see who is going to make the next move. At this point, we are trying to wrap everything up for the session. It means everybody needs to recognize decisions have to be made, very tough decisions. I am speaking in part to the conferees who are addressing issues right now. There are one or two outstanding issues in these conferences. Now is the time to make those decisions. If not, we will be here all the way up to Thanksgiving, and after Thanksgiving, and up to the December holidays. That is really unacceptable to me. But now is the time to wrap things up, over these next several weeks.

Mr. REID. Mr. President, I have said on the floor previously that the veterans of America recognize how important our work is here. So much that we do reflects on these different programs. I also think if things are as difficult as they appear, we may have to do something on that Tuesday. That will certainly be up to the leader. But I also recognize that other than Senator FRIST and Senator DASCHLE, no one has had a more difficult job these last few weeks than the Presiding Officer and Senator BYRD. Trying to marshal through these appropriations bills is extremely difficult.

But we have made really good progress. To think we have been able in just the last few weeks to do as much as we have here on the Senate floor with the appropriations bills is significant. Debating the Interior appropriations conference report this coming Monday is also important. I think there is light at end of the tunnel. With the chairman cajoling, along with the Presiding Officer, we can continue to make progress.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business with Senators permitted to speak for up to 10 minutes.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

RECALL THE IRAQI ARMY

Mr. LEVIN. Mr. President, last week a memorandum on the war on ter-

rorism from Secretary of Defense Rumsfeld to his top subordinates was leaked to the press. In that memo, Secretary Rumsfeld asked a number of questions, including the following: Is our current situation such that "the harder we work, the behinder we get?" Then he asked: "What else should we be considering?"

Well, I am dismayed that Secretary Rumsfeld says publicly something so differently than what he has said privately. I am glad he is looking for new direction since our post-Saddam policy is not working well, given the sustained and increasing attacks on our forces.

Secretary Rumsfeld asked—again—"What else should we be considering?" Well, the President of the Iraqi Governing Council has made a specific recommendation for us to consider: that the regular Iraqi Army units be called up to assist our troops in providing security for the reconstruction of their country.

Surely it is worthy of our consideration, when Iyad Alawi, this month's serving President of the Iraqi Governing Council—the 25-member body selected by the United States to represent the Iraqi people—is making a suggestion to change course.

He wrote an important opinion piece entitled "America Must Let Iraq Rebuild Itself," which was published by the New York Times on October 19. The main premise of the article is that "ultimately, only Iraqis themselves can restore security, rebuild national institutions, enact a constitution and elect a democratic government."

I believe all of us would agree with that premise. For Mr. Alawi, the vital step is to "call up the Iraqi Army and the national police force [for] at least up to the mid-officer level" to deal with the insecurity and chaos in the country.

Mr. Alawi believes the Iraqi officer corps will have to be vetted to remove those who have committed crimes under the old regime. He points out that most of the Iraqi Army's soldiers are "Iraqi patriots who chose not fight for Saddam Hussein" and "would probably return to their units and contribute to their country's future." He argues that it would be "much easier and quicker to retrain and reequip them within their existing organizational structure than to start from scratch."

Mr. Alawi argues that these steps would not only relieve the burden on American troops but also would gain substantial good will among Iraqis.

Tom Friedman, writing in the New York Times, on October 23, is of a similar mind. He urges the administration to declare the following: "We thank all the nations who offered troops, but we think the Iraqi people can and must secure their own country. So we're inviting all former Iraqi Army soldiers (not Republican Guards) to report back to duty. For every two Iraqi battalions that return to duty (they can weed out

their own bad apples), we will withdraw an American one. So Iraqis can liberate themselves. Our motto is Iraq for the Iraqis."

That is from Tom Friedman, who has been a very strong supporter of the administration's military actions in Iraq and the decision to attack Iraq.

The administration and the Coalition Provisional Authority have taken a different tack in reorganizing Iraqi security, particularly with regard to the Iraqi Army. They are essentially starting from scratch to build a completely new Army of 40,000 people who are being trained and equipped as a motorized infantry.

The goal is to form nine brigades by the end of 2004, but thus far only one battalion of 750 soldiers has been trained and equipped.

Additionally, the Coalition Provisional Authority is creating an Iraqi border patrol force, only 5,000 to date, with the need to expand to more than 20,000 sometime in the future. A 20,000-person Facilities Protection Service is intended to take over security at fixed site locations from coalition forces, and an Iraqi civil defense corps of 6,600, expanding to more than 15,000 in 2004, is being integrated into coalition military units to provide local intelligence and help with security patrolling.

While I have some questions regarding the need for four distinct security forces, including a new Iraqi Army, in addition to a new national police force, I am open to arguments that this approach to building a new army may be desirable in the long run. A better educated, trained, equipped, and motivated army, whose members are more representative of the diverse Iraqi population, and which was created expressly to serve the people of the new Iraqi state, may be more ideal.

However, in the short term, I believe Mr. Alawi's recommendation to reconstitute units of the old regular army is surely worthy of consideration. No one, including Mr. Alawi, argues for a continued role for those portions of the old army that were part of the repressive security apparatus of the Saddam regime—units such as the Special Security Guards, the Special Republican Guards, and the Fedayeen Saddam.

In fact, those units were created by Saddam because he did not trust his regular army. In that portion of the State Department-sponsored "The Future of Iraq Project," dealing with Iraqi Armed Forces, the Working Group that wrote this part of the report, discussed this issue.

They noted the following: "Saddam Hussein realized, with his sense of security, that he will not be able to earn the loyalty and trust of the army with its varied character in spite of many attempts to purify or clean the army from the disloyal elements—as he called them—in order for the army to become an army of ideology to protect the party and the revolution and defend the nation's values." They added that "Thus the army remained a

source of worry, suspicion and threat to Saddam; in spite of the fact that the army got into its many wars because Saddam desired it. There are some who think that the army was pushed into these wars to keep it continuously busy confronting outside aggressions." Finally and in view of these findings, the Working Group concluded that "In any event we think it necessary to keep the basic structure of the army, which can be easily rehabilitated. . . ."

That regular army, below the midofficer level, after vetting, could serve a useful role by putting trained Iraqi forces into the field to more quickly enhance overall security. The regular Iraqi Army was a sizable force of approximately 80,000 officers, 130,000 noncommissioned officers, and 400,000 conscript soldiers."

We probably made a mistake in formally disbanding the Iraqi army in May. I wonder if Ambassador Bremer doesn't tacitly believe the same, given the quick decision that was made by him shortly thereafter by agreeing to pay monthly allowances to officers and noncommissioned officers after the unrest that was unleashed by that decision.

Beginning in July, monthly payments were made according to a rank-based scale, ranging from \$50 for a noncommissioned officer to \$150 for a general, somewhat below the base pay for the various ranks. Additionally, a one-time \$40 stipend was paid to former conscripts. Since July, the Coalition Provisional Authority has paid from Iraqi funds approximately \$78 million to about 260,000 individuals and just over \$15 million to approximately 375,000 conscripts. The estimated cost for the stipend during the next year will be \$190 million, if payments continue throughout the year.

In other words, we know where the men and women—mainly men—in the Iraqi regular army are located. They came for those payments, and we know how to locate them, should we make a decision to reconstitute units of that Iraqi army.

That money was well spent. There is ample evidence from other conflicts that unemployed former soldiers can be a destabilizing and a disruptive influence, as some believe is currently the case in Iraq today. In view of the \$156 billion that is likely to be appropriated for U.S. military forces in Iraqi reconstruction in fiscal years 2003 and 2004, paying those sums to members of the old regular Iraqi army would be a modest expenditure.

But would it not make more sense to pay those sums to soldiers who are actually doing something? Would it not make sense to quickly reconstitute recently disbanded Iraqi regular army units to take on security tasks that are within their capabilities? Would it not be possible that recently disbanded Iraqi army units would be able to more quickly assume duties for which the border patrol, the facilities protection service, and the civil defense corps are

intended, including patrolling Iraqi streets with our own soldiers? Would this not more quickly give Iraqis the responsibility for and a stake in securing their own country? And, more importantly, wouldn't it be better for all concerned if primarily Iraqi soldiers and not Americans were acting to restore security in Iraq and dealing with those who would seek to disrupt it?

The Governing Council President thinks so.

I ask unanimous consent that an article written by the current President of the Iraqi Governing Council, Iyad Alawi, entitled "America Must Let Iraq Rebuild Itself," which appeared in the New York Times on October 19, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mrs. DOLE). Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. I asked Ambassador Bremer when we met with him: At a minimum, would he not raise this issue with the Governing Council to see whether or not the views of the President of the Governing Council, that the Iraqi army regular units should be reconstituted, represent the views of the Governing Council itself. We surely should listen to those views. These are the folks we put in office there as representing the Iraqi people. At a minimum, I urged Ambassador Bremer to find out formally from that Governing Council whether or not the President's views, as represented by this article in the New York Times—that the regular units of the army, properly vetted to make sure we don't hire old members of the Saddam leadership—should be reconstituted to help us maintain order and security in Iraq.

I believe Ambassador Bremer will in fact make that request of the Governing Council—not the request to reconstitute the army, because I don't think Ambassador Bremer is there yet, but the request of the Governing Council to see if they agree that it would be wise for those units below the mid-level officer level to be reconstituted, properly vetted, to help us on the streets of Baghdad and in the areas which are very dangerous, and to take some of the pressure off our troops to make us less of a target and to have Iraqis gradually but more quickly take over their own security so that we are not a lightning rod for the folks who are trying to destroy us.

I look forward to the response of the Governing Council of Iraq to Ambassador Bremer's request. We know that as a new Iraqi army is formed, some of the existing units will be retrained and equipped to expand that army. But it is critically important that we have this question put before that Governing Council. The creation of a new Iraqi army is going very slowly. We are at less than a thousand. We must move more quickly.

The question is, since most of the members who we are hiring for that

new army are members of the old army in any event, would it not be much quicker to reconstitute the units of that old army—again, below the mid-officer level, so we don't have the Saddam regime involved—would it not be much quicker to follow the suggestion of the President of the Governing Council, reconstitute the units and move on from there?

The Secretary of Defense asked, in his leaked memorandum, if what the U.S. is doing is enough and what else should be considered. I am glad he asked those questions. As I said before, I am sorry he has not said publicly what he said privately in terms of his doubts and concerns. But having said that, I am glad he is raising questions. I am glad he is asking questions about whether we should change course in some way.

I have written to the Secretary of Defense to solicit his views on Mr. Alawi's proposal. Again, I hope Ambassador Bremer does consult with the Iraqi Governing Council, seek their recommendations on this issue, and not only solicit their recommendations but seriously consider ways to formulate an integrated and comprehensive plan to move more quickly to involve Iraqis in their own security and in their overall governance.

EXHIBIT 1

[From the New York Times, Oct. 19, 2003]
 AMERICA MUST LET IRAQ REBUILD ITSELF
 (By Iyad Alawi)

BAGHDAD, IRAQ.—No Iraqi will ever forget the momentous April day when a crowd of hundreds of cheering Baghdadis, helped by an American armored vehicle, pull the huge statue of Saddam Hussein to the ground. With this act, we tore down three decades of tyranny and repression and began building in its place a foundation for freedom, democracy and a better future for our children.

To see that this goal is achieved, the Bush administration has challenged me and my colleagues on the Iraqi Governing Council to draft a permanent constitution within six months and to move as quickly as possible to hold internationally monitored, free elections. We gladly accept that challenge, and welcome the vital assistance of the United Nations, through the Security Council resolution passed on Thursday, to see through to completion the enormous task ahead.

But we also realize that there are obstacles on Iraq's march toward democracy. In the months since Iraq was liberated, jubilation has given way to insecurity and chaos. When my fellow Iraqis finally go to the polls to elect their government, they must have confidence that state institutions are not only legitimate and independent, but robust enough to guarantee safety and civil rights. That is why the coalition and the council must take several immediate steps to establish these necessary conditions for the constitutional process to succeed.

First, it is vital to call up the Iraqi Army and the national police force, at least up to mid-officer level. The coalition's early decision to abolish the army and police was well intended, but it unfortunately resulted in a security vacuum that let criminals, diehards of the former regime and international terrorist flourish. And the coalition's plan to build a 20,000-member lightly armed force mostly responsible for security and border control could make poor use of a valuable re-

source: the 300,000 Iraqi soldiers who simply went home with their weapons in the face of the American-led invasion.

Most of these soldiers are Iraqi patriots who chose not to fight for Saddam Hussein. Americans should not confuse the Iraqi Army with the hated Republican Guard, which Saddam Hussein created precisely because he distrusted the legitimate military. In one simple process, the coalition authority can support the governing council to call the army back to its barracks for retraining and, ultimately, for redeployment. Most soldiers and their officers will proudly return to their units and contribute to their country's future.

The coalition and the Iraqi Interior Ministry can vet officers to remove those who committed crimes under the old regime, and then rapidly redeploy the most capable units to work with, and progressively relieve, American troops of security duties. Iraqi Army units have an established chain of command and esprit de corps. Not only can they be recalled to barracks immediately, but it would be much easier and quicker to retrain and re-equip them within their existing organizational structure than to start from scratch.

By supporting the recall of army units, the United States would not only speed the process of relieving the burden on its troops, it would also gain substantial good will in Iraq. In contrast, any American-led military presence, even if complemented by the United Nations, will never have the credibility and legitimacy that the Iraqi Army has among the people.

In addition, the Iraqi national police must also be recalled. Most Iraqi policemen—as opposed to Saddam Hussein's feared intelligence and security organs—are dedicated to law and order. The United States does not have the time or money to create a police force from the ground up, nor is it necessary, because we have a large, organized force that is ready and willing to serve.

Many other Iraqi governing institutions should also be reactivated by the governing council, with the support of the coalition authority. Special priority must be given to the Ministries of Interior, Justice, Finance, Oil and Education. The Iraqi bureaucracy must also be called back to work, although of course after screening to disqualify serious offenders of the former regime. Together, the council and the coalition leaders can modernize the state apparatus, phase out obsolete policies and practices, and encourage a new mindset of transparency and efficiency.

Finally, as security improves, Iraqi institutions are re-established and the constitutional drafting process is completed, the United States should support international recognition of Iraqi sovereignty. Then a recognized interim government could quickly present a popular referendum, under United Nations monitoring, on the new national constitution. It would be a grave mistake for the United States to hold out sovereignty and international recognition as the reward for passage of a constitution. Rather, making Iraqis once again a part of the international system is the prerequisite of successful reconstruction and a durable democratic system.

Iraqis are grateful for the tremendous efforts and sacrifices the United States is making on our behalf. Yet, ultimately, only Iraqis themselves can restore security, rebuild national institutions, enact a constitution and elect a democratic government. America must not rebuff Iraqis who are eager to have a stake in this intimate national process. Like any free people, we want to ensure that we are in control of our own destiny.

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

HONORING OUR ARMED FORCES

Mr. DEWINE. Madam President, a week ago today, I came to the Senate floor to honor and to remember a young Ohio soldier who lost his life while bravely serving our Nation in Iraq. That young man, PFC Branden Oberleitner, had served proudly in the Army's 101st Airborne Division, based out of Fort Campbell, KY.

Today, I come again to the floor of the Senate to honor and to remember another young Ohio soldier who served proudly in the 101st Airborne Division, another young soldier who lost his life bravely defending our Nation and fighting to give a better life, freedom, and liberty to the people of Iraq.

Madam President, SGT Brett Thomas Christian was born on December 5, 1975. Growing up, Brett's life was not always easy. Like a lot of families, he and his mother Tess and brothers Sloan and Derek moved around a lot. As a young child, Brett was in and out of a number of schools, leaving old friends and making new ones each time. The family eventually settled in the Cleveland, OH, area, where, for a time, Brett attended Richmond Heights High School.

Brett adapted well to new environments and knew how to quickly make new friends. People liked Brett; they were drawn to him. He had a great sense of humor and an easy-going demeanor. The first thing people remember about Brett is his wit, his smile, his charm. His brother Derek said, "You couldn't be sad around him. He was just a funny guy."

But Brett also had a serious side. He was a smart person, a smart kid. He read a lot. In fact, he started reading at a very early age and ended up 2 years ahead in school. As his brother Sloan said, "He was always so smart. He blew away all the tests he took."

Brett was also a hard worker. His uncle remembers how he took a physically demanding job at a tropical fish farm. Each day, Brett would travel on his bike 5 miles there and 5 miles back. Rain or shine, Brett road those 10 miles to and from work, laboring tirelessly to get the job done and, yes, done well. He dreamed of opening a restaurant one day with his Richmond Heights High School buddy, Jonathan Wilke.

Brett completed his GED and decided to enlist in the U.S. Army. Brett's mom Tess said he was born to serve; that he always wanted to be a soldier. She said, "My son believed in honor, loyalty, good character, all those things."

Brett was assigned to Company C, 2nd Battalion of the 502nd Infantry of the 101st Airborne Division. He trained to be a sniper and served a year in Korea before being called to Iraq.

Brett's job in Iraq was to drive a 2½-ton diesel carrier. It was grueling and dangerous work. SGT Shane Harris described Brett as one of his most dependable drivers. He was able to log 20-hour days moving soldiers, loads of ammunition, thousands of gallons of fuel, and pallets of bottled water, MREs, and other supplies.

Brett was one of the first American soldiers to cross the line into Iraq. SGT John Ryan recalled how he sent Brett in to push a line forward to secure a bridge. He said that he chose Brett because he was certainly up for it:

He believed in what we were there for. He knew what needed to be done. He knew how to lead from the front. He was sniper-qualified. He was mission-responsible. He was good under stress. He had a good head on his shoulders. He could always analyze and develop a course of action quickly.

On that same mission, it was later learned that some of our trucks got lost in Iraq after crossing the line. Not surprisingly, it was Brett who found them and, yes, got them out.

On July 23, 2003, SGT Brett Christian was killed and seven others were wounded near Mosul, Iraq, when his convoy was ambushed by rocket-propelled grenades and small arms fire. He was 27 years old.

Madam President, Brett Christian was buried on the hollowed ground of Arlington National Cemetery on August 7, 2003. At that service, MAJ Douglas Fenton called Brett an American hero. He received a Purple Heart and Bronze Star.

There is no question that Brett Thomas Christian was a good man, a good son, brother, grandson, friend, and soldier. He was kind. He was compassionate. As his mother said:

They say the eyes are the windows of the soul. His eyes swelled with emotion. They were bright and welcoming.

At a memorial service for Brett in Ohio, Pastor Rick Duncan movingly described the kind of man Brett Christian became. This is what he said:

He was resourceful. He was gracious, never malicious. He never showed any sort of prejudice about anyone. He was responsible, uplifting, and thoughtful. He was a man of action. He was a charmer.

Ultimately, Brett Christian was a true warrior. Brett Christian made a lot of choices in his life. He chose to look at the positive, not the negative. He chose to see the good things in life and in people, not the bad. He chose to face fear and adversity head on and fight against the evil in our world. According to Brett's grandmother Eileen, the last time he was home he explained to his younger brother, who had indicated an interest in joining the military, exactly why he joined the Army. He wanted his brother to understand that he believed in what he was doing, that he believed in helping people and serving our country.

Let me conclude with something Sloan said about his beloved brother:

Brett had the most potential of anyone in the family—anyone I know. He's a beautiful soul who could have changed so much of the world. He had the love and ability to change a lot of the world.

Madam President, Brett Christian did change the world. Brett Christian did make a difference.

Brett's family—his mother Tess; his brothers Derek and Sloan; his grandparents Thomas and Eileen—remain in my thoughts and my prayers.

Madam President, I yield the floor. The PRESIDING OFFICER. The Senator from Utah is recognized.

ECONOMIC GROWTH

Mr. BENNETT. Madam President, one of the facts that those of us who live in the Washington area have grown accustomed to is that the world looks different through the eyes of the reporters for the Washington Post and the reporters for the Washington Times. My wife and I sometimes play the little game of opening both papers simultaneously and looking at the two headlines side by side. Usually, the Washington Times says things that sound good from the Republican point of view and the Washington Post says things that sound good from the Democratic point of view.

The interesting thing this morning is that both papers covered the same story, and both papers said basically the same thing.

I went into the cloakroom, and I gathered some other papers to see if the headlines were the same there as well. I have them here. Let's start with the Washington Times and the Washington Post.

The Washington Times says:

Growth Erupts in Summer Order. Consumers, Businesses, Go on a Spending Spree.

Out of the Washington Post—they treat that not quite as enthusiastically, but they say:

U.S. Economic Growth Surges. Output Rises at the Highest Rate Since 1984, but Jobs Still Decline.

So the Washington Post puts in a little bash there for the President that the Washington Times does not.

If we go to the Wall Street Journal, which some think of as a mouthpiece for the Republican National Committee, their headline is:

Higher Gear, Economy Turned in its Best Quarter in Nearly Two Decades. GDP Surged 7.2 Percent in Quarter on Broad Based Gains. Bush Team Trumpet Data.

To balance that from the Wall Street Journal, let's go to the newspaper some consider the house organ of the Democratic National Committee, the New York Times, and their headline is:

Economy Records Speediest Growth Since the Mid-80's. Is Good News Here for Good? Bush Hopes So. Third Quarter Data Surge in Spending Helped by Rebates May Not Persist.

Then I picked up USA Today, the screaming headline:

7.2 Percent GDP Growth, Fastest in 19 Years. Economists Credit Tax Relief and Shoppers.

For one day at least, everybody agrees that the No. 1 story is the tremendous performance turned in by the American economy in the third quarter, and the headlines trumpet the numbers, 7.2 percent GDP growth.

I would like to go behind the numbers. I would like to add a few numbers and do what I can to try to put this performance in perspective.

No. 1, we have to recognize what even the New York Times has recognized, which is this is an extraordinary accomplishment, and this is a sign of very good times.

I notice a quote from Howard Dean, who is running for President on the Democratic side, that indicates he is a little disappointed in this; he is a little unhappy that Americans are earning more money, that disposable income is up, that the economy is booming. Perhaps he was hoping he could ride into the White House on a wave of consumer dissatisfaction. If that is his hope, at least the third-quarter numbers say he has to find something else for which to hope.

But it is true that the numbers we have here are not sustainable long term, and that is not necessarily bad because what we are looking for is not a single quarter of extraordinary growth. What we are looking for is a sustained period of recovery. The signs are there that we are, indeed, in such a period. It is not just the 7.2 percent growth in GDP we need to pay attention to; it is some other numbers. Let me address some of those numbers.

They are in the newspaper stories, some of them buried a little further than I would do it if I were writing the story, but the first number that is of significance is the growth in business investment. Yes, as the headlines indicate, the tax relief and the shoppers are responsible for this, but the tax relief is, indeed, something of a one-time phenomenon. The mailing out of the checks for the child tax credit put more money in the hands of parents just before back-to-school shopping, and that showed up in the shopping figures.

Furthermore, the combination of the lowering of withholding rates along with the child tax credits causes people to go out and make some very significant purchases. New cars went up as a significant part of this performance in the third quarter, and you don't buy a new car every quarter. Undoubtedly, you will see some tapering off of some of these major purchases. So we can say that the fourth quarter will not be at the 7.2 percent level as far as GDP is concerned.

One of the newspapers says it will fall all the way down to 4 percent. Madam President, 4 percent on an annual basis is very robust and wonderful growth for an economy as mature as ours. If we could maintain a 4 percent average for the next 2 or 3 years, we

would all be very happy about that. So those who are saying the 7.2 won't last and we will fall all the way down to 4 percent should remember there was a time not far distant in our history when we would have been very happy with 3.5 percent. I will take 4 percent any day as a steady, stable growth in the economy.

Let's go back to the business investment number, the number that did not get as much attention as the 7.2 percent GDP number. Business investment grew at 11.1 percent, up from 7.3 percent the previous quarter. The thing to remember is that 7.3 percent is, in and of itself, considered a very strong indication of further growth, and this is the number that holds the promise of future jobs because if business is investing, business eventually is going to have to start hiring.

Let me put the 7.3 percent number in some perspective. As I say, in historic terms, 7.3 percent would be a good number, but we have seen business investment go down, not a positive number of any kind, a negative number for 9 out of the last 11 quarters. To have it come out of negative territory, be so strongly positive as to be at 7.4 percent, and then see the next quarter come in at 11.1, this is as strong a signal as we are going to get that the economy, which has been in recovery but struggling ever since the recession ended, is now in a period of takeoff for sustained growth for the coming year.

One of the other numbers the economists always look at is the question of inventories: How many goods do you have on the shelf, Mr. or Mrs. business person? How many goods do you have that are waiting to be sold? If the shelves are full, you are probably not going to be buying any more until they start to come down, until your inventories start to fall. Usually when you have a period of growth like we have experienced in the third quarter, your inventories go up because people are stocking their shelves as the sales are strong.

Inventories went down in the third quarter. The sales were so strong that they not only took everything we could produce but they reduced inventories that were already low even further, which means that for the fourth quarter and into the next year—first, second, and third quarters—businesses have a major challenge to restock those depleted inventories, which is another sign that there will be growth, another sign that there will be jobs, another sign that this recovery is well underway and has firm traction.

Take the three numbers and put them together: 7.2 percent increase in GDP, substantially more than anybody anticipated; 11.1 percent increase in business investment, substantially more than anybody had anticipated; and a reduction in inventory of .67 percent from the previous level, and you have the profile of a recovery that is very robust.

What caused this recovery? Certainly, one can say it was due. Cer-

tainly one can say this was part of the business cycle reasserting itself. We had the excesses of the 1990s that felt so wonderful while we were in them but that were so excessive that the reaction to them felt painful when it came.

It now appears we have worked through most of those excesses. We have paid the price for the bubble of the late 1990s and we are beginning to get back on solid footing. However, one must credit President Bush's initiative in pushing tax cuts at the right time and at the right level to accelerate this growth.

Virtually every one of these papers I have gone through at one place or another in the story will admit, triumphantly in the case of the Washington Times, grudgingly in the case of the New York Times, that the Bush tax cut made a significant contribution to this growth.

I have already recited how it works with respect to consumer spending, but the consumer spending could be a one-time phenomenon and not hold if it is indeed tied to the receipt of checks such as the child credit. However, if the consumer spending has been accelerated by virtue of the reduction in withholding rates, something President Bush insisted on over and over again and that had the greatest resistance in this Chamber, we can say that portion of the tax cuts will, in fact, have a permanent impact on the growth; that that is a gift that will, in fact, keep on giving and we will see continued consumer spending as people have more money left in their paychecks.

What is the outlook in terms of the other political number we hear over and over again in this Chamber, which is the deficit? One of the greatest arguments that was made as we were debating the Bush tax cut was it would make the deficit swell and soar beyond all comprehension and ultimately leave us bankrupt as a nation.

There is another interesting number, one that has not received this kind of headline throughout the country but that is very important. At one point, as the economists were making their projections with respect to the deficit, they said the deficit for this fiscal year, the year that ended September 30, 2003, would be as high as \$455 billion. That was a number that came out of the Office of Management and Budget at one point, as they made their guess as to what the economy would be doing and how much money would be available.

We have heard that \$455 billion figure repeatedly, particularly from those who were opposed to the President's tax cut and who have been opposed to the supplemental appropriation for Iraq. They are saying we have a \$455 billion deficit and we are going to try to add \$87 billion on top of it; that is irresponsible; we cannot possibly do that.

Well, an interesting thing happened on the way to the closing of the books. With a stronger economy and with

spending coming in at lower levels, we began to see higher revenues and, therefore, lower estimates. As the year got nearer to its close, some economists were saying the deficit might even be as low as \$400 billion instead of the \$455 billion; we might even be below the magic \$400 billion number. I do not know what is magic about the \$400 billion number, but it sounds good to pick that number.

Then we began to hear from the Congressional Budget Office: yes, the deficit will clearly be below \$400 billion. How much? It could be as much as \$20 billion below \$400 billion. It could be as low as \$380 billion.

The numbers are now in. The books have been tentatively closed, and it is \$374 billion. It is \$26 billion below the \$400 billion mark and it is \$81 billion below the \$455 billion that was being talked about just a few months ago.

It is purely a coincidence—there is no connection whatsoever—but it is interesting that the actual number below the highest amount that was forecast is almost identical to the \$87 billion of the Iraq supplemental. In other words, if we take the actual number of \$374 billion and add the \$87 billion, we come to the theoretical number close to the \$455 billion we were talking about.

All of us would love to sponsor legislation that could cut \$80 billion a year out of the deficit. We would stand before our constituents and take enormous credit. We would say, are we not wonderful? We have eliminated \$80 billion of the deficit.

The economy did it for us. I think we have to credit the combination of the Bush tax cuts with the growth of the economy in the business cycle, with making us a little bit humble, of telling the politicians we do not control the events nearly as much as we pretend to in our speeches.

The most important thing to remember is it is the economy itself that creates all Federal revenue. Money does not come from the budget. Money comes from the economy. Our job is to do whatever we can to get out of the way of intelligent market forces and allow the economy to grow as strongly as it can on its own. I think that is what Alan Greenspan has done at the Federal Reserve. I think that is what President Bush has led us to do in the Congress with the tax cuts, and I think the unanimous statements out of all of the papers today indicate it is working.

I send my congratulations to Chairman Greenspan, my congratulations to President Bush, and my best wishes for all of us that this will, in fact, continue.

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

The PRESIDING OFFICER (Mr. CHAFEE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Mr. President, I send a resolution to the desk and ask it be appropriately referred.

The PRESIDING OFFICER. The resolution will be received and appropriately referred.

(The remarks of Mr. BIDEN pertaining to the submission of S. Res. 256 are printed in today's RECORD under "Submitted Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

RECENT ACCOMPLISHMENTS IN THE SENATE

Mr. FRIST. Mr. President, I wanted to take this opportunity while we are in the quorum call to come to the floor and comment briefly on what we have done in the last several days and look ahead as to next week. We won't actually be closing here for a little bit as we are working on a couple of issues.

I want to thank everybody formally for the hard work they put forward this week. It was an aggressive week in terms of what we set out to accomplish, and we were able to finish everything we said we were going to do, with one exception, and that is set up to complete at the end of next week. People worked very late last night, with 14 rollcall votes, finishing close to midnight. I thank everybody for that commitment manifested over the last several days.

The days have been very long. Everybody's schedules are full with activities not just on the floor. There is this constant balancing act. We had to deal with three or four issues and bills at the same time. It seems to individual schedulers of Senators that things are somewhat discombobulated. Despite all that, we were able to finish a number of issues.

The Healthy Forests legislation was accelerated into the schedule because we had not planned exactly when we were going to do that. That took a lot of cooperation. We were able to take it to the floor and complete it, which is especially important with the recent fires that are and have been burning in California. As we have watched those images, we could not help but extend our prayers to the families, for the individuals who are so directly affected in that part of the country and also by fires in other States. With those images now that we see every morning, every night, and over the course of the day, we extend our heartfelt prayers to those affected.

On the Foreign Operations bill, our majority whip did a tremendous job in ushering that bill through. We had the bill on the floor. We came to a point

where we had certain challenges in terms of funding and paying for a particular very important amendment on HIV/AIDS, and the cooperation there on both sides of the aisle in being able to move off that bill for a period of time while that was resolved with the President pro tempore, chairman of the Appropriations Committee, Senator TED STEVENS, coming forward and working out a proposal that allowed us to reach out and send a strong message across the world that this little virus, HIV/AIDS, is something we are going to beat over time; and then, with all that cooperation, coming back to the floor and passing that amendment, and ultimately the Foreign Operations bill last night, gives me a great deal of satisfaction because it shows cooperation, partnership, working together, and the attention to people's schedules on the floor, an efficient use of everyone's time.

I congratulate Senator MCCONNELL, the majority whip, who did a superb job in that regard.

The nomination of Michael Leavitt, now Administrator of the Environmental Protection Agency, was an issue we addressed, and it took a lot of work both behind the scenes and on the floor of the Senate. We were able to vitiate cloture and we were able to give him an up-or-down vote, which I would like to see more of in other nominations, and we will continue to fight for that. Michael Leavitt, now Administrator, got that up-or-down vote. That stresses the importance of having that sort of process of an up-or-down vote for all of the President's nominees.

In the Leavitt debate, there were disagreements on various policy issues, but we had a qualified nominee at the time. He deserved that vote and he got it, and I was pleased that he was confirmed by a large bipartisan vote.

The Iraq supplemental is coming to a close, and through the agreement last night, we will deliver on the President's request in terms of supporting our military women and men overseas and doing everything we possibly can from a legislative and financial standpoint to ensure their safety, but to maximize the safety of the Iraqi people and the reconstructive efforts promoted aggressively and entirely consistent with what Ambassador Bremer told us was necessary, our military leaders told us was necessary, our Commander in Chief told us was necessary.

There are a number of issues we debated in terms of how we monitor the spending of this money, which has been resolved, and whether it should be grants versus loans. There was a lot of good debate, and the issue was ultimately resolved right where the President said it would be most useful. We will complete that Monday. There will be no rollcall vote because both sides of the aisle have agreed to that, but we will talk further about the issue Monday. By Monday early evening or late afternoon, that bill will pass and that will bring that issue to a close.

We will spend a little time on the Interior conference report on Monday, and we will have a vote on that late Monday afternoon, somewhere between 5 and 6, probably 5:30 to 6 p.m.

We have the fair credit reporting bill on which we have agreement to bring to the floor, and that will probably be Tuesday.

Then we have the Internet tax moratorium which, as I said earlier this morning, I would have liked to have addressed today or last night, but because there are a number of Members who feel very strongly that we have to have a different time for debate, we all agree we will be doing that bill probably Thursday of next week. As I expressed this morning, my intention is to finish that either Thursday or Friday.

Last night, we did act on the continuing resolution, and that will fund our Governmental operations until November 7, and that will allow us to continue our work on the remaining business.

I also spoke earlier this morning about the urgency that I feel, which I want to express to my colleagues, to stay focused, to complete the appropriations process, as well as the work in the various conferences so we can adjourn at a reasonable time.

All of this work—again, most of this is just from the last several days—means that we have had to work throughout the day each day this past week and into the evening.

Also, because a lot of things we handle in wrap-up, and people are not generally aware because they are not done with a lot of fanfare but are done by unanimous consent of the entire body, I find it useful each evening when I close, but especially at the end of the week, to look at some of those bills.

This week the Senate passed S. 1194, Senator MIKE DEWINE's Mentally Ill Offender Treatment and Crime Reduction Act. I mentioned earlier that Senator DEWINE was instrumental in putting together the amendment on HIV/AIDS to the foreign operations bill, which we passed as well.

The bill S. 1768, the National Flood Insurance Program Reauthorization Act, which was introduced by Senator BUNNING, was passed.

We are still hoping today to make progress on the military tax fairness bill. This bill is intended to hopefully level the playing field with respect to tax policy for many members of the Armed Forces. I know there is currently an objection, but I encourage those people who objected to in the next few minutes or hours, whatever it takes, look at that bill and hopefully be able to clear that as soon as possible.

Senator INHOFE's bill, S. 1757 relating to the Kennedy Center reauthorization, was just cleared by both sides. There was another bill from Senator SPECTER and the Veterans' Committee, S. 1132, the veterans benefits bill, an important

bill that we need to finish as we approach November 11. That will be finalized shortly.

The point is, we are able to proceed in a bipartisan manner, and we are making progress. We must continue to do that to get the needed work done as we try to work out or work through the host of complicated issues which are inevitable when we deal with legislation.

We will continue to work across the aisle to do the necessary work of this body as we move through these final days.

Again, we will not close the Senate until we work through a few remaining items of business, but I say thanks to my colleagues. We are making progress. We have a lot of work to do over the coming days, but we are going to be able to adjourn in a reasonable period of time if we stay focused and stay disciplined as we go forward.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PLASTIC GUN OR TOY GUN

Mr. LEVIN. Mr. President, yesterday the Cannon House Office Building was temporarily evacuated when a staff member apparently carried a toy plastic gun past a Capitol Police security check point. This incident reminds us of how important it is that we maintain adequate security in our public buildings. Even though I raised this issue last week, I want to take this opportunity to highlight the importance of the Terrorist Firearms Detection Act, a bill introduced last week by Senator KENNEDY. Originally passed in 1988, and sometimes called the "plastic gun" law, this Federal law makes it illegal for any person to manufacture, import, ship, deliver, possess, transfer or receive any firearm that is not detectable by walk-through metal detectors or the type of x-ray machines commonly used at airports.

Since September 11, 2001, Congress has worked hard to improve the security of our borders, airports, Government buildings, and communities. In just over a month, on December 10, the plastic gun law is set to expire. The Terrorist Firearms Detection Act would permanently reauthorize this law. I support this bill because plastic guns, whose production has been endorsed by the National Rifle Association, should only be used by our military and intelligence agencies.

This legislation has the support of major gun safety organizations, including the Brady Campaign to Prevent Violence United with the Million Mom March, Americans for Gun Safety, and the Violence Policy Center. The De-

partment of Justice, while failing to endorse Senator KENNEDY's permanent ban, has indicated its support for extending the current ban.

I urge my colleagues in Congress to act quickly to pass the Terrorist Firearms Detection Act, so that hopefully President Bush can sign it into law.

THE BATTLE OF MIDWAY IN 1942

Mr. INOUE. Mr. President, I would like to share with my colleagues a fascinating article by Dr. James Schlesinger, who served our Nation in a number of prestigious positions, such as Secretary of Defense, Secretary of Energy, and Director of the Central Intelligence Agency. The article, "Underappreciated Victory," was published in the October 2003, issue of the Naval History magazine, a publication of the Naval Institute Proceedings. The article calls for the recognition of the world-historic significance of the Battle of Midway in 1942 because it was the turning point in our Nation's war in the Pacific, which, in turn, proved critical to our efforts in the European theater of war. Yet the Battle of Midway, which played such a crucial strategic role for both the European and Pacific war, scarcely gets mentioned in the history books. I wish to submit a copy of Dr. Schlesinger's article to be printed in the RECORD. This brilliant article sets the record straight.

I ask unanimous consent the article be printed in the RECORD.

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

[From Naval History Magazine, Oct. 2003]

UNDERAPPRECIATED VICTORY

(By James Schlesinger)

As we honor those who turned the tide of World War II with a victory over ostensibly overwhelming force at the Battle of Midway in 1942—61 years ago—too few of us understand the battle's world-historic significance. It is essential, therefore, for us to go forth and proselytize.

I continue to be puzzled over the fact that it comes as something of a revelation to many people that this battle played such a crucial strategic role for the war in Europe. So the question before us is: Why is Midway not recognized as the crucial battle for the West in World War II, just as Stalingrad is recognized as a crucial battle for the Soviet Union? The comparative neglect of Midway is a great historical puzzle and, in a sense, a great injustice.

In relation to what British Prime Minister Winston Churchill and others called Grand Strategy, Midway was far more than a decisive naval victory. It was far more than the turning of the tide in the Pacific war. In a strategic sense, Midway represents one of the great turning points of world history. And in that role, the battle remains underappreciated.

Consider the Grand Strategy of the Allies, which Churchill naturally preferred and President Franklin D. Roosevelt was eager to endorse. It was, quite simply, to deal with Adolf Hitler and with the German threat in Europe first. It has been embraced shortly after the Japanese attack on Pearl Harbor, at the Arcadia Conference. President Roosevelt clearly recognized and acted on the

conviction that the Third Reich was the greater menace. Dramatic as the Japanese advance after Pearl Harbor had been, it was into slightly developed colonial regions—to be sure, those possessing rubber and tin. Yet, at its base, it was far less dangerous than Hitler's continuing advance, crushing and then organizing the industrial nations of Europe, while to that point almost entirely obliterating far more formidable resistance. But it was Japan that had attacked the United States, and it was Japan on which the anger of the American people had focused.

Though Churchill could almost automatically concentrate on Europe, it required considerable courage for President Roosevelt to carry through on the Grand Strategy. Germany's declaration of war on the United States on 8 December 1941 provided a small opening. Yet, had it not been for Midway, President Roosevelt could not have persevered with a Europe-first policy. Public opinion would not have allowed it. Indeed, even after Midway, he paid a substantial political price. In the mid-term election of 1942, the Democrats lost 44 seats in the House of Representatives, barely retaining control, with comparable losses elsewhere. In a subsequent poll of all the Democratic congressional candidates, the principal reason given for the debacle: "frustration" and fury at Roosevelt's Germany-first strategy, which translated into failure to punish the Japanese more aggressively for Pearl Harbor.

Nonetheless, despite the inclinations of the public, President Roosevelt recognized that the larger threat lay elsewhere, and he was prepared to pay the domestic political price for that larger national objective, defined by his Grand Strategy.

Consider the overall military situation in spring 1942. Japan was on a roll. The Philippines had fallen, including the final outposts of Bataan and Corregidor. The Japanese had swept through the Malay Peninsula from French Indochina, and on 15 February the supposedly "impregnable fortress" of Singapore had fallen to numerically inferior Japanese forces. The Dutch East Indies had been captured. Japanese forces were advancing into Burma and threatening India. Even Australia appeared to be a target. U.S. naval forces significantly weakened by the attack at Pearl Harbor, appeared vastly inferior to the armada that Japan was gathering to advance eastward in the Pacific toward Midway—then possibly to the Hawaiian Islands or even to the U.S. West Coast. Additional Japanese victories would have made it politically impossible for President Roosevelt to continue to pursue the Grand Strategy of Europe-first.

Then came Midway. Through an extraordinary combination of the skill and courage of our pilots, splendid intelligence, prudent risk-taking by our commanders that paid off, and sheer good luck, the apparently inferior U.S. forces were victorious. This victory occurred despite inferior aircraft, ineffective torpedoes, the substantial absence of backup surface ships, and our overall numerical inferiority. The rest is well known. Four Japanese carriers had been sunk, confirming the dictum of Otto von Bismarck: "the Lord God has special providence for fools, drunkards, and the United States of America." The Japanese offensive had been blunted. The Japanese fleet turned back toward the home islands, their opportunity for victory lost forever. President Roosevelt could then execute his Grand Strategy, with all that was to imply regarding the condition of postwar Europe.

After Midway, the United States could, to the chagrin of General Douglas MacArthur, turn its primary attention back to the European theater. After the stunning surrender of Tobruk, which appeared to jeopardize both

Cairo and the Suez Canal, President Roosevelt thus could accommodate the somewhat distraught Churchill's request for 300 of the new Sherman tanks to bolster the defenses in Northeast Africa, ultimately leading to the victory at El Alamein. The Battle of the Atlantic gradually turned with the steady improvement in antisubmarine warfare, thereby helping to ease the shipping shortage. By the fall, Operation Torch, the landings in North Africa, initiated offensive operations that ultimately led to the destruction of Field Marshal Erwin Rommel's Afrika Korps. The invasion of Sicily soon followed, succeeded by the invasion of Italy and eventually the landings in Normandy.

Had these events not taken place or been much delayed, it is possible the Soviet Union would not have survived. But if it had, and succeeded in its march westward, the face of postwar Europe would have been vastly different. Soviet forces would have deployed farther to the west. Germany likely would have been occupied in its entirety. The West's foothold in Europe would have shrunk, perhaps dramatically. The ability of France and Italy to survive communist pressures, precarious as it was in 1947, would have been much reduced. In brief, it was Midway, a battle in the distant Pacific, that shaped the face of postwar Europe.

Despite its crucial historic role, Midway gets scarcely more attention in our history books than the War of 1812 naval battles on Lake Champlain or Lake Erie—let alone the scant attention Europeans have paid to it. Let us reflect on a few other notable battles that turned the tide of history.

In 480, B.C., Athens had fallen to the Persian army, but Athens had in a sense survived in the form of its 200 naval vessels that Athens, prodded by Themistocles, an early apostle of naval construction, had created. On 28 September in the straits of Salamis, before the very eyes of the Emperor Xerxes, the combined Greek naval force delivered a devastating blow, sinking some 200 Persian ships, with the loss of only 40 of their own. Xerxes, as Herodotus describes, had wanted to rule Europe as well as Asia. Fearing an attack on its bridges over the Hellespont, the Persian army largely withdrew. Greek (and European) civilization had been preserved. Indeed, begging pardon for a lapse from political correctness, Europe had been saved from Oriental Despotism. It was a naval battle that decided the fate of a civilization, a turning point in history.

Each year, the English-speaking world celebrates Trafalgar. Yet, it is not clear that even in the absence of victory England would not have survived. Midway, at a minimum, was the most decisive naval victory since Trafalgar, and perhaps the most strategically decisive victory since Salamis.

What of the crucial battles here in the United States? The Revolutionary War Battle of Yorktown is, of course, celebrated appropriately. Yet, after the Battle of the Capes, Yorktown was but the frosting on the cake, an almost inevitable triumph. The Battle of Saratoga, by contrast, is seen rightly as the turning point of the Revolution.

One is no doubt obliged to speak also of the Civil War Battle of Gettysburg. Yet, while Gettysburg may have been the high-water mark of the Confederacy, the outcome of the war was never much in doubt. Just recall the remarks of that military logistician, Rhett Butler, at the beginning of *Gone With the Wind*, when he rebukes some Southern hot-heads by pointing to the overwhelming industrial domination of the North.

They why, if Midway had such world-historic strategic significance, has it received so much less attention than it deserves? A recent documentary supposedly detailing the Pacific War, produced by Steven Spielberg

and Stephen Ambrose, moves smoothly from Pearl Harbor to island hopping in the western Pacific, with scarcely a mention of Midway. How could such a momentous victory come to be overshadowed? There are, I believe, three prominent reasons.

First, the Europeans are quite naturally even more Eurocentric than we are. For them, the crucial battle for the European theater had to begin the European theater itself and not some remote spot in the Pacific. There is still little sense in Europe of what a vast enterprise the war in the Pacific was. El Alamein continues to be celebrated in the United Kingdom. Similarly, the Battle of the Bulge is celebrated annually here. But the outcomes of both those battles were almost foreordained by the balance of forces.

Moreover, the most prominent, indeed almost the canonical, history of World War II was written by Winston Churchill himself. And where would Churchill look? Not to some purely American engagement in the distant Pacific. Midway is mentioned only in Churchill's six-volume history, with no indication of how it shaped the outcome in Europe.

Second, Midway always has lain in the shadow of D-Day, which occurred 2 years later, but which has an anniversary that coincides with Midway in the calendar year. D-day, which was truly touch-and-go, deserves all the attention it has received. But it should not come at the detriment of Midway itself. For without Midway, there would have been no D-Day on 6 June 1944, with all that that implies about the condition of postwar Europe.

Third, it is also in a sense the fault of the U.S. Navy itself. The Navy (take no offense) is both too shy in blowing its own horn and too complacent. Naming a carrier after a battle, for example, is considered so high an honor that nothing more needs to be said.

Midway may be the victim of intraservice politics or more exactly, intertribal fights. If one glorifies what was so dramatically a carrier victory, it might be interpreted to the detriment of the surface Navy and/or the submarine force. So tact required a relatively discreet silence. Thus, regarding the crucial significance of Midway in world history, more than the submarine force has been the "Silent Service."

Our British allies perennially have demonstrated a masterly touch in displaying, not to say marketing, their armed forces and their accomplishments. Go to London. See the centrality of Trafalgar Square in the city. Observe that obelisk for Admiral Horatio Nelson towering over the Square. It all provides a setting and reinforcement for the annual celebration of the naval battle itself. By contrast, Farragut Square in Washington is a very dim competitor. And where, pray tell, is Midway? It is, of course, the Midway, a part of Chicago, named after the 1893 World's Fair—or a nearby airport, a transition point halfway across the United States.

Now hear this! It is time to go forth and proselytize and underscore the world-historic role of Midway. The battle and its veterans deserve no less.

THE VETERANS BENEFITS ENHANCEMENTS ACT OF 2003

Mr. SPECTER. I have sought recognition today to explain briefly the provisions of S. 1132, the proposed Veterans Benefits Enhancements Act of 2003. This legislation, which was approved by the Committee on Veterans' Affairs on September 30, 2003, incorporates provisions drawn from 13 different bills that were considered by the

Committee on Veterans' Affairs over the course of the first session. S. 1132, as so amended, is a lengthy bill—almost 50 pages—and so I will not endeavor in this statement to explain in detail each and every provision of the bill. Rather, I will discuss the highlights in this statement, and refer my colleagues to the committee report that accompanied approval of the bill for a more extended explanation of the bill.

The starting point for S. 1132, as reported, was S. 1132, the proposed "Veterans' Survivors Benefits Enhancements Act of 2003," which I introduced on May 22, 2003. That bill, as its title indicates, focused on the needs of the surviving families of veterans who were gravely injured or killed in war. It contained provisions to increase widows' and orphans' educational assistance benefits, and to increase dependency and indemnity compensation (so-called "DIC") benefits—benefits provided to the widows and surviving children of service members whose deaths are service related—in cases where the widow has at home at least one dependent child. The bill, as introduced, would have also extended eligibility for burial in a VA national cemetery to all surviving spouses of veterans, including a group now denied eligibility—service members' widows who are remarried at the time of their deaths. And finally, S. 1132, as introduced, would have extended benefits now provided to spina bifida-afflicted children of Vietnam veterans who were exposed to Agent Orange to the children of veterans who served in another area where Agent Orange was widely used in 1967–1969, the Korean demilitarized zone, and who are afflicted with the same birth defect.

I am pleased that the Committee on Veterans' Affairs approved all but one of these provisions; one provision—the proposed increase in DIC benefits for widows with dependent children—was, unfortunately, too costly to proceed with at this time. I am pleased, as well that at mark up, the committee's members approved the addition of a number of other measures which were drawn from other bills that had been referred to the committee for consideration. Among those provisions are the following:

Provisions derived from bills introduced by Senators MURRAY (S. 517), CRAIG (S. 1239), and GRAHAM of Florida (S. 1281) to improve medical care and compensation benefits afforded to former prisoners of war;

Provisions derived from administration-requested legislation (S. 1213) to increase benefits afforded to Filipinos who fought alongside U.S. troops in World War II;

Provisions derived from administration-requested legislation (S. 1133) to improve the VA's educational assistance, life insurance, and State cemetery grant programs; and

Provisions derived from a bill introduced by Committee Ranking Member,

BOB GRAHAM, (S. 1281) to authorize further funding and oversight of the Department of Defense and Institute of Medicine activities to identify the causes of, and treatments for, injuries related to exposures to Agent Orange, radiation, and other environmental dangers by service members.

The bill also contains various measures to assure that, despite the enactment of the significant improvements contained within the bill, the bill will nonetheless be in compliance with Budget Enforcement Act strictures against the enactment of "mandatory account" spending measures without accompanying "pay-go" offsets.

S. 1132, as amended, is good legislation that is supported, on a bipartisan basis, by all of the members of the Committee on Veterans' Affairs. Further, its key provisions are supported by VA Secretary Anthony J. Principi and by the major veterans' service organizations. I ask that the Senate approve it.

NOMINATION FOR THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Mr. KENNEDY. Mr. President, the nomination of Mr. Stuart Ishimaru to be a member of the Equal Employment Opportunity Commission in the Department of Labor was approved today by the Health, Education, Labor and Pensions Committee, and I look forward to prompt confirmation of this qualified nominee by the full Senate.

Mr. Ishimaru brings a distinguished legal background and a demonstrated commitment to public service to the position.

For 10 years he served as counsel to the House Judiciary and Armed Services Committees and was a counsel and deputy assistant Attorney General in the Justice Department's Civil Rights Division under Attorney General Janet Reno.

Through these positions he has helped enforce the great civil rights laws we have enacted over the last 50 years, from protections for the elderly, to protections for people with disabilities, to protection from discrimination in the workplace. And he has done so with a sense of fairness, compassion, and integrity that has earned him wide respect. I know he will continue his excellent work by enforcing our Nation's employment laws at the EEOC.

I urge my colleagues to support this well qualified nominee to the EEOC.

THE NATION'S HOSPITALS

Mr. ALLARD. Mr. President, hospitals in the United States have enormous responsibility. The Nation's hospitals care for patients, perform surgeries, train interns, research cures to diseases, and provide millions of dollars annually for the uninsured. Their services improve Americans' health and lives and better our communities. I laud their service to Colorado and the Nation.

Recently Solucient, a company that provides health care data to improve health care results, published its list of the Nation's 100 top hospitals. Four of Solucient's designees are Colorado hospitals: Saint Joseph Hospital in Denver, Rose Medical Center in Denver, Swedish Medical Center in Englewood, and Lutheran Medical Center in Wheat Ridge. Solucient determines its selection of top hospitals according to hospitals' consistent and superior quality care, financial performance, and efficient delivery of care. According to Solucient, the Top 100 hospitals treat more, and sicker, patients with better survival rates and fewer complications.

I am pleased to acknowledge Solucient's selection of Colorado hospitals for its quality service, dedication, and commitment to providing quality health care for Colorado, the Nation, and the world. First, Solucient has recognized Saint Joe's Hospital in Denver in its studies of orthopedic and intensive care units. According to the hospital, Saint Joe delivers more babies than any other Colorado hospital, serves more patients in gastroenterology, general surgery, pulmonology, cardiac care, nephrology and rheumatology than any other acute care hospital in the Denver metropolitan area, and for the past 5 years the hospital has cared for more cardiology and open heart surgery patients than any other acute care hospital in the metro area.

Second, Exempla Lutheran Medical Center specializes in cardiology, oncology, orthopedic services, and women's health care. Lutheran Medical also provides special care to the community through its community clinics, special programs and services for the elderly, and hospice care. In addition, Lutheran Medical Center's Emergency Department has the second highest patient load in the Denver metropolitan area.

Third, with a mission of commitment to patients, Rose Medical Center in Denver asserts a reputation for high quality health care and quality customer service. Rose Medical Center specializes in women's health services, general surgery, internal medicine, pediatric care, and emergency services. Rose Medical Center also partners with philanthropic organizations to help offer services to the Colorado community. Further, Rose Medical Center is the official health care provider for the Denver Nuggets professional basketball team and the Colorado Avalanche professional hockey team.

Fourth, Solucient recognized a teaching hospital in Englewood, Colorado, Swedish Medical Center, which has six "Centers of Excellence:" the Colorado Neurological Institute, adult & pediatric trauma services, advanced radiology capabilities, cardiology services, cancer treatment services, and women's and children's services. In addition, Swedish is a Level I Trauma Center and is a leading referral center for neurotrauma. Swedish also offers services for the elderly, emergency medical

service education, and has a Family Medicine Residency Program.

I am pleased these Colorado hospitals have been recognized as leaders in quality, efficiency, and financial responsibility in institutional health care. I laud their work and am expectant for their continued high quality of care and progress for Colorado and the Nation.

ADDITIONAL STATEMENTS

HONORING DR. MARTHA RHODES ROBERTS

• Mr. GRAHAM of Florida. Mr. President, today I pay tribute to a fine humanitarian and Floridian, Dr. Martha Rhodes Roberts, who is retiring on October 31. Throughout her 34-year career with the Florida Department of Agriculture and Consumer Services, Dr. Martha Rhodes Roberts has contributed to Florida's agriculture food safety industry as a scientific authority, industry counselor, strategist, and partner in the endeavors of Florida agricultural producers. She has become an expert on minimizing food contamination for consumers, by helping to develop safer standards in food processing. Dr. Rhodes Roberts' dedication to safe food practices has enriched the lives of Floridians and Americans.

Since beginning her career with the Florida Department of Agriculture and Consumer Services as a microbiologist in the Food Laboratory in 1968, Dr. Roberts has been a tireless advocate to ensure the food Americans eat is safe and abundant while at the same time helping the agricultural community to minimize their impacts on the environment. In addition to these achievements, she has the distinction of serving as the first female Assistant Commissioner of Agriculture for a State agency in the country. During her tenure at the Florida Department of Agriculture and Consumer Services, Dr. Roberts was instrumental in Florida's food safety program becoming one of the preeminent State food safety programs in the country. She also has overseen the divisions of pesticides, fertilizers, seeds, agricultural water policy, soil and water conservation, animal feeds, aquaculture and dairy and animal industries during her long career with the department.

Dr. Roberts has served on several Federal advisory groups for the U.S. Food and Drug Administration, the U.S. Department of Agriculture, and the U.S. Chamber of Commerce and she has served as president of the Association of Food and Drug Officials, comprised of all States, FDA and USDA. She was instrumental in organizing the Conference for Food Protection, a national body to set food safety standards for all States. Dr. Roberts is a member of the Institute of Food Technologists' Science Advisory Board, which provides scientific review and analysis of issues in food safety, food processing

and human health. Dr. Roberts has utilized her expertise in food safety to assist producers, packers and processors in implementing new technologies designed to minimize food contamination, ensuring the highest quality and safest food products for consumers.

In 1996, recognizing that natural resource management was critical for Florida agriculture's long term viability, Dr. Roberts advocated the creation of the Office of Agricultural Water Policy within the Department of Agriculture and Consumer Services. Today it remains the only water policy office housed within a State department of agriculture. She also spearheaded the formation of the Suwannee River Basin Nutrient Management Working Group, a 26-member public-private partnership formed to assess nutrient loadings to the Suwannee River Watershed and effect reductions via voluntary, incentive-based programs. This innovative approach has resulted in dramatic environmental benefits to the watershed as a whole. Dr. Roberts was instrumental in the establishment of the Commissioner of Agriculture's Ag-Environmental Leadership Awards Program. This program, now in its ninth year, annually recognizes those Florida growers and ranchers who employ innovative management practices designed to optimize the protection of wildlife, effectively manage pesticides and nutrients, protect water quality, and conserve soil and water.

Dr. Roberts has been recognized with numerous awards and commendations for her efforts. In 2003, she received Florida's agriculture industry's highest honor when she was inducted into the Florida Agricultural Hall of Fame. Dr. Roberts has been a strong advocate of using a common sense approach when implementing a regulatory program. She helped win passage of Florida's country of origin labeling law in 1979 and worked to see this law become a Federal reality in 2002. For her many years of service ensuring the food Americans eat is safe, abundant and affordable, I am proud to acknowledge the work of Dr. Martha Rhodes Roberts. ●

MESSAGE FROM THE PRESIDENT

A message for the President of the United States was communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 10:03 a.m., a message from the House of Representatives, delivered by Mr. Hays, one its reading clerks, announced that the House has agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3289) making emergency supplemental appropriations for defense and for the reconstruction of Iraq and Afghanistan for the fiscal year ending September 30, 2004, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker of the House has signed the following enrolled bills:

H.R. 1610. An act to redesignate the facility of the United States Postal Service located at 120 East Ritchie Avenue in Marceline, Missouri, as the "Walt Disney Post Office Building";

H.R. 1882. An act to designate the facility of the United States Postal Service located at 440 South Orange Blossom Trail in Orlando, Florida, as the "Arthur 'Pappy' Kennedy Post Office";

H.R. 1883. An act to designate the facility of the United States Postal Service located at 1601-1 Main Street in Jacksonville, Florida, as the "Eddie Mae Steward Post Office";

H.R. 2075. An act to designate the facility of the United States Postal Service located at 1905 West Blue Heron Boulevard in West Palm Beach, Florida, as the "Judge Edward Rodgers Post Office Building";

H.R. 2254. An act to designate the facility of the United States Postal Service located at 1101 Colorado Street in Boulder City, Nevada, as the "Bruce Woodbury Post Office Building";

H.R. 2309. An act to designate the facility of the United States Postal Service located at 2300 Redondo Avenue in Signal Hill, California, as the "Stephen Horn Post Office Building";

H.R. 2328. An act to designate the facility of the United States Postal Service located at 2001 East Willard Street in Philadelphia, Pennsylvania, as the "Robert A. Borski Post Office Building";

H.R. 2396. An act to designate the facility of the United States Postal Service located at 1210 Highland Avenue in Duarte, California, as the "Francisco A. Martinez Flores Post Office";

H.R. 2452. An act to designate the facility of the United States Postal Service located at 339 Hicksville Road in Bethpage, New York, as the "Brian C. Hickey Post Office Building";

H.R. 2533. An act to designate the facility of the United States Postal Service located at 10701 Abercorn Street in Savannah, Georgia, as the "J.C. Lewis, Jr. Post Office Building";

H.R. 2746. An act to designate the facility of the United States Postal Service located at 141 Weston Street in Hartford, Connecticut, as the "Barbara B. Kennelly Post Office Building"; and

H.R. 3011. An act to designate the facility of the United States Postal Service located at 135 East Olive Avenue in Burbank, California, as the "Bob Hope Post Office Building".

The enrolled bills, previously signed by the Speaker of the House, was signed on today, October 31, 2003, by the President pro tempore (Mr. STEVENS).

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 1805. A bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

S. 1806. A bill to prohibit civil liability actions from being brought or continued against manufactures, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC-4948. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Sault Saint Marie, MI" (MB Doc. No. 02-83) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4949. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations, Conway, SC" (MB Doc. No. 03-110) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4950. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b) and 73.606(b), Table of Allotments, DTV and TV Broadcast Stations, Pittsburgh, PA" (MM Doc. No. 01-276) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4951. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b) and 73.622(b), Table of Allotments, DTV and TV Broadcast Stations, Asheville, NC and Greenville, SC" (MB Doc. No. 02-363) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4952. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Farmington, Grass Valley, Jackson, Lindon, Placerville, and Fair Oaks, CA, and Carson City and Sun Valley, NV)" (MM Doc. No. 90-189) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4953. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations, Macon, Mississippi" (MM Doc. No. 01-38) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4954. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Wapanucka, OK, Comanche, TX, Hollis, OK, Santa Anna, TX, Mooreland, OK, Junction, TX, Alton, MO, Taos, NM, McCamey, Dickens, and Hamlin, TX)" (MM Doc. No. 01-181, -190, -217, -220, -226, -228, -233, -282, -283, -284, -285) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4955. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Auburn, Northport, Tuscaloosa, Camp Hill, Gardendale, Homewood, Birmingham, Dadeville, Orrville, Goodwater, Pine Level, Jemison, and Thomaston, AL)" (MM Doc. No. 01-104) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4956. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Depoe Bay, Garibaldi, Cottage Grove, Veneta, and Toledo, Oregon)" (MM Doc. No. 02-255) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4957. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Roundup, Montana)" (MB Doc. No. 02-127) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4958. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Sugar Hill and Taccoa, GA)" (MM Doc. No. 98-162) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4959. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Archer City, Texas)" (MM Doc. No. 03-116) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4960. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Othello and Basin City, Washington)" (MB Doc. No. 03-25) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4961. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Orange, Midlothian, and South Hill, VA and Reidsville, NC)" (MB Doc. No. 03-47) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4962. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Glens Falls, Indian Lake, Malta and Queensbury, New York)" (MB Doc. No. 03-105) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4963. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Magnolia, Arkansas, and Oil City, Louisiana)" (MB Doc. No. 02-199) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4964. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Okmulgee and Glenpool, OK)" (MB Doc. No. 02-15) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4965. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Cadiz and Oak Grove, KY)" (MB Doc. No. 93-314) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4966. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Old Fort, Fletcher, and Asheville, NC; Surgoinsville, TN and Augusta, GA)" (MB Doc. No. 01-175) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4967. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Washington and Watkinsville, GA)" (MB Doc. No. 01-281) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4968. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Kernville, CA)" (MB Doc. No. 03-111) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4969. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Marion and Johnston City, IL)" (MB Doc. No. 03-13) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4970. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM

Broadcast Stations (Savannah, Springfield, and Tybee Island, GA)" (MB Doc. No. 03-119) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4971. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Cedar Bluff, Virginia and Gary, West Virginia)" (MB Doc. No. 02-316) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4972. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Quartzite, AZ)" (MB Doc. No. 03-131) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4973. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Saint Joseph, Clayton, Ruston, and Wisner, LA)" (MB Doc. No. 01-19) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4974. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Daisy, AR, Trona, CA, Muldrow, OK, and Rattan, OK)" (MB Doc. No. 03-42) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4975. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Ozone and Iraan, TX)" (MB Doc. No. 02-261) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4976. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Buffalo, OK)" (MB Doc. No. 02-383) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4977. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Crisfield, MD; Belle Haven, Exmore, Nassawadox, and Poquoson, VA)" (MM Doc. No. 02-76) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4978. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (Broken Bow, OK)" (MM Doc. No. 01-209) received in October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4979. A communication from the Senior Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b), Table of Allotments, FM Broadcast Stations (DeRidder, DeQuincy, and Merryville, LA and Newton, TX)" (MM Doc. No. 02-56) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4980. A communication from the Deputy Division Chief, Policy Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Section 68.4 of the Commission's Rules Governing Hearing Aid-Compatible Telephones" (FCC03-168) received on October 27, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4981. A communication from the Chief of Staff, Consumer and Governmental Affairs Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Order on Reconstruction" (FCC03-46) received on October 20, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4982. A communication from the Chief, Policy and Rules Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co Frequency with GSO and Terrestrial Systems in the Ku Band Frequency Range (Second Memorandum Opinion and Order)" (FCC03-25) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC-4983. A communication from the Chief, Policy and Rules Division, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Parts 2, 25, and 97 of the Commission's Rules with Regard to the Mobile-Satellite Service Above 1 GHz" (FCC03-69) received on October 30, 2003; to the Committee on Commerce, Science, and Transportation.

DISCHARGED NOMINATIONS

The Senate Committee on Rules and Administration was discharged from further consideration of the following nominations and the nominations were:

Paul S. DeGregorio, of Missouri, to be a Member of the Election Assistance Commission for a term of two years.

Gracia M. Hillman, of the District of Columbia, to be a Member of the Election Assistance Commission for a term of two years.

Raymundo Martinez III, of Texas, to be a Member of the Election Assistance Commission for a term of four years.

Deforest B. Soaries, Jr., of New Jersey, to be a Member of the Election Assistance Commission for a term of four years.

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. CRAIG:

S. 1805. A bill to prohibit civil liability actions from being brought or continued

against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; read the first time.

By Mr. CRAIG:

S. 1806. A bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others; read the first time.

By Mr. McCAIN (for himself, Mr. REED, Mr. DEWINE, Mr. LIEBERMAN, Mr. CHAFEE, Mr. LAUTENBERG, and Mr. SCHUMER):

S. 1807. A bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and for other purposes; to the Committee on the Judiciary.

By Mr. SESSIONS (for himself, Mr. HOLLINGS, Mr. LOTT, Mr. SHELBY, Mr. COCHRAN, Mrs. DOLE, Mr. EDWARDS, Mr. INHOFE, and Mrs. HUTCHISON):

S. 1808. A bill to provide for the preservation and restoration of historic buildings at historically women's public colleges or universities; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE (for Mr. EDWARDS):

S. 1809. A bill to provide grants for mental health and substance abuse services for women and children who have been victims of domestic or sexual violence; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for Mr. EDWARDS):

S. 1810. A bill to amend the Public Health Service Act to improve treatment for the mental health abuse and substance abuse needs of women with histories of trauma, including domestic and sexual violence; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DASCHLE (for Mr. EDWARDS):

S. 1811. A bill to expand research for women in trauma; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BIDEN (for himself, Mr. LUGAR, Mr. KERRY, Mr. BROWNBACK, Mr. DODD, and Mr. HAGEL):

S. Res. 256. A resolution observing the 50th anniversary of the Mutual Defense Treaty between the United States and the Republic of Korea, affirming the deep cooperation and friendship between the people of the United States and the people of the Republic of Korea, and thanking the Republic of Korea for its contributions to the global war on terrorism and to the stabilization and reconstruction of Afghanistan and Iraq; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 59

At the request of Mr. INOUE, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 59, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and

to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 1245

At the request of Ms. COLLINS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1245, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 1353

At the request of Mr. BROWNBACK, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1353, a bill to establish new special immigrant categories.

S. 1612

At the request of Ms. COLLINS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1612, a bill to establish a technology, equipment, and information transfer within the Department of Homeland Security.

S. 1630

At the request of Mrs. CLINTON, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral services, and for other purposes.

S. 1664

At the request of Mr. HARKIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1664, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to provide for the enhanced review of covered pesticide products, to authorize fees for certain pesticide products, and to extend and improve the collection of maintenance fees.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN (for himself, Mr. REED, Mr. DEWINE, Mr. LIEBERMAN, Mr. CHAFEE, Mr. LAUTENBERG, and Mr. SCHUMER):

S. 1807. A bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and for other purposes; to the Committee on the Judiciary.

Mr. McCAIN. Mr. President, I take a backseat to no one in my support of Second Amendment rights. But this right, which Americans have fought and died for, does not extend to terrorists, criminals and illegal aliens. That is why I am pleased to announce today a landmark agreement on gun show legislation that I have reached with Senators JACK REED, MIKE DEWINE, and JOE LIEBERMAN.

The bill accomplishes two critical goals: It protects gun shows as a viable business and ongoing enterprise, and it slams the door on criminals, terrorists and illegal aliens who have successfully exploited a loophole in our gun

safety laws to acquire firearms at gun shows for nefarious purposes.

I know the gun safety issue is controversial in Congress and that there is a great deal of passion on both sides. This legislation replaces passion with pragmatism. It stakes out a sensible middle ground to solve the real problem of criminals and terrorists getting guns at gun shows without burdening gun show operators with punishing paperwork or treating enthusiasts who attend these shows as pariahs.

For gun rights advocates like myself, this bill does not retreat one inch in the battle to protect our Second Amendment rights. It treats gun show operators and patrons with respect and requires simply that background checks be performed on all firearms sales at gun shows. For those who are rightly concerned about gun violence, this bill simply and straightforwardly accomplishes the goal of closing a loophole that has fueled illegal gun trafficking in America.

I am a gun owner and I have attended many gun shows in my state of Arizona. More than most people, I know that the majority of gun show patrons and sellers are honest, law abiding citizens. But I also know that there is a sinister element that attends these shows and exploits this loophole.

Defenders of gun shows, like myself, cannot ignore the staggering statistic that gun shows are the second leading source of firearms recovered in illegal gun trafficking investigations conducted by ATF. Just this week, the St. Louis Post-Dispatch reported that ATF agents seized 572 firearms from five unlicensed sellers who were exploiting the gun show loophole in ways that threaten the safety of American citizens. The same article quoted an ATF agent saying "crime guns do originate at gun shows. That's been documented."

The fact that gun shows are a leading source of crime guns is reason enough to close the gun show loophole, but we also know of at least three cases where alleged terrorists used the gun show loophole to purchase firearms and that makes closing this loophole imperative.

On September 10, 2001, a Federal court in Detroit convicted Ali Boumelhem, a known member of the terrorist group Hezbollah on seven counts of weapons charges for smuggling shotguns, ammunition, flash suppressors, and assault weapons parts to Lebanon.

FBI agents followed Boumelhem to at least three Michigan gun shows in October 2000. According to the Middle East Intelligence Bulletin, the shipment in which he was finally arrested was part of a pattern—Boumelhem "traveled frequently to gun shows to buy arms and then hid them in cargo crates bound for Lebanon." According to the Associated Press, "Federal agents say they watched Boumelhem, a resident of Detroit and Beirut, travel to gun shows to buy gun parts and ammunition for shipment overseas."

On October 30, 2001, Muhammad Asrar, a Pakistani national with suspected al-Qaeda ties, pleaded guilty in Federal court in Texas to firearms-related charges. He was convicted of illegally possessing 50 rounds of 9mm ammunition. He was also convicted on an immigration charge—illegally overstaying his student visa since 1988.

Asrar was arrested after an anonymous informant told authorities that Asrar had asked him whether he would smuggle a foreign national across the border from Mexico. Asrar also allegedly asked the informant if he would take pictures of tall buildings for him during his travels. Police seized several photos of tall buildings from Asrar's store.

Asrar admitted to authorities that he had bought and sold a variety of guns at Texas gun shows over the previous 7 years, including a copy of a Sten sub-machine gun, a Ruger Mini-14 rifle, two handguns, and a hunting rifle.

Despite the final adjudication of the ammunition and immigration charges, which can carry a penalty of up to 10 years in prison, Asrar remains under investigation by a Federal grand jury. According to the New York Times, Asrar is being investigated for possible links to al-Qaeda.

Connor Claxton is an Irish national and an admitted member of the Irish Republican Army who is currently serving a prison term for attempting to smuggle guns bought in Florida to Ireland. At his trial he testified about how he came to the United States on IRA orders to buy weapons and ammunition for shipment back to Ireland and that he chose to come to Florida because "we don't have gun shows in Ireland, and you see things here like you never imagined."

According to his co-conspirator Siobhan Browne, Claxton "spent more than \$100,000 off the books on semi- and fully automatic weapons in sales from private dealers" who are not required to perform background checks. Browne also said that Mickey Couples, a senior IRA leader, told her that "the gunrunning mission had been going on for four years and that there were 50 IRA volunteers involved."

In an era where America is right to be concerned about security, it is absolutely imperative that we close this dangerous loophole that allows criminals, terrorists, and illegal aliens to claim a right that they don't deserve.

The McCain-Reed-DeWine-Lieberman bill requires instant criminal background checks for all firearm sales at gun shows. For licensed dealers selling at gun shows, this bill creates no new burdens. For unlicensed sellers, they will simply need to have an instant background check performed before they transfer a firearm. The instant check could be performed by a licensed dealer, local law enforcement, or by a new entity created by this bill called a special licensee—an individual or gun show employee who may perform instant background checks at gun shows only.

The bill also defines a gun show in a fair and rational way. Any public event where 75 or more firearms are offered for sale is defined in the legislation as a gun show. Collectors who sell their own guns from their own homes are exempt. In addition, private hunt clubs that buy, sell, or trade firearms between members are also free from the requirements of this bill.

Paperwork requirements under the bill are the minimum necessary to ensure compliance with the law. I made sure that gun show operators would not be buried under an avalanche of paper.

Finally, the bill allows States to seek a waiver to make the instant check even quicker for unlicensed sellers at gun shows once that State has automated the records necessary to make the check as accurate as possible. I am aware that some sellers are concerned that the law allowing up to three business days to complete a background check is burdensome for weekend gun shows.

Currently, because of improvements made by Attorney General John Ashcroft, 91 percent of all background checks are completed within five minutes and 95 percent are completed within two hours. For all intents and purposes, we now have a viable instant check system. But I would like to get that 95 percent success rate up to 100 percent and this bill will help entice States to get their felony, domestic violence and mental health records in order so that no one has to wait days to be approved or denied a firearm under instant check.

This legislation should appeal to all but those who either hate guns and believe that no one should own them or those who believe that even terrorists, criminals and illegal aliens are protected under the Second Amendment. In 1999, every member of the Senate voted for some form of a bill to close the gun show loophole, but neither side was willing to compromise for the sake of America. Let's stop playing politics with guns and support a bill that closes a serious loophole while respecting the rights of those who enjoy gun shows. This is our chance.

Mr. REED. Mr. President, I rise to join my colleague Senator MCCAIN in introducing the Gun Show Loophole Closing Act of 2003. We offer this legislation to strengthen our Nation's gun laws by closing a loophole that has allowed criminals to buy firearms at gun shows for far too long. I look forward to working with Senator MCCAIN and our fellow cosponsors to offer this legislation to the first appropriate vehicle that comes before the Senate. In particular, it is our intention to offer this bill as an amendment to the gun industry immunity bill, S. 659. If the Senate is going to consider granting immunity from civil liability to the firearms industry—an industry that Congress already exempted from the consumer product safety laws that apply to virtually every other product sold in this country—it is critical that we protect

the American people by improving law enforcement oversight of commerce in firearms.

The Bureau of Alcohol, Tobacco and Firearms reported to Congress in 2000 that gun shows are a major gun trafficking channel responsible for more than 26,000 illegal firearms sales during the 18-month period ATF studied. The FBI and ATF tell us again and again that convicted felons, domestic abusers, and other prohibited purchasers are taking advantage of the gun show loophole. At least three suspected terrorists that we know of have also exploited this loophole to acquire firearms, including one suspected al Qaeda member.

Under Federal law, Federal Firearms Licensees are required to maintain careful records of their sales, and under the Brady Act, to check a purchaser's background with the National Instant Criminal Background Check System before transferring any firearm. However, a person does not need a Federal firearms license—and the Brady Act does not apply—if the person is not “engaged in the business” of selling firearms pursuant to Federal law. These unlicensed sellers make up one quarter or more of the sellers of firearms at thousands of gun shows in America each year. Consequently, felons and other prohibited persons who want to avoid Brady Act checks and records of their purchases buy firearms at gun shows.

Four years ago, Eric Harris and Dylan Klebold killed 13 people at Columbine High School with weapons purchased from an unlicensed seller at a gun show. The woman who purchased those guns on behalf of Harris and Klebold testified to the Colorado legislature that she never would have purchased the weapons had she been required to undergo a background check.

We have united behind this bipartisan legislation—which brings together provisions from several previous gun show bills—to make gun show transactions safer for all Americans. The bill would require Brady Law background checks on all firearms transactions at any event where 75 or more guns are offered for sale. Three years after enactment, States could apply to the Attorney General for certification for a 24-hour background check for unlicensed sellers at gun shows. In order to be eligible for 24-hour certification, a State would be required to have 95 percent of its disqualifying records automated and searchable under NICS, including 95 percent of all domestic violence misdemeanor and restraining order records dating back 30 years. Before certifying any State for 24-hour background checks, the Attorney General would be required to establish a toll-free telephone number to enable State and local courts to immediately notify the NICS system any time a domestic violence restraining order is filed, and courts within a certified State would be required to use the telephone num-

ber immediately upon the filing of such an order. The bill also directs the Attorney General to work with States to encourage the development of computer systems that would allow courts to provide electronic records to NICS immediately. The Bureau of Justice Statistics would conduct an annual review of all certified States to ensure they continue to meet the conditions for 24-hour background check certification.

Some will say that this legislation is an attempt to end gun shows, but the experience of States that have closed the gun show loophole proves otherwise. California, for example, requires not only background checks at gun shows but a 10-day waiting period for all gun sales, yet gun shows continue to thrive there. No, we are not trying to end gun shows. What we are trying to end is the free pass we're giving to terrorists and convicted felons that allows them to simply walk into a gun show, find a private dealer, buy whatever weapons they want and walk out without a Brady background check.

In overwhelming numbers, the American people believe that background checks should be required for all gun show sales. The people of Colorado confirmed this after the Columbine tragedy when they approved a ballot initiative to close the gun show loophole. I urge my colleagues to support the Gun Show Loophole Closing Act of 2003 so that we can finally close this loophole in every State and make sure that convicted felons, domestic abusers, and other prohibited persons do not use gun shows to purchase firearms without a Brady background check.

Mr. DEWINE. Mr. President, I rise today as an original co-sponsor of the Gun Show Loophole Closing Act of 2003. I would like to thank Senators MCCAIN, LIEBERMAN and REED for also sponsoring this common sense piece of legislation that aims to keep guns out of the hands of criminals and out of the hand of kids. It is a good bill—an important bill.

Gun ownership rights are clearly established in the United States Constitution. And, I am a firm supporter of the Second Amendment. I also strongly believe that we have an obligation to protect the safety of law-abiding citizens and the safety of our most precious resource, our children.

As a former county prosecutor, I learned that the best way to reduce the illegal and often fatal use of guns is to pass and enforce tough laws that severely punish criminals who use them. That is why I consistently have supported measures that keep firearms from getting into the wrong hands in the first place and that increase the punishment of those who use firearms in the commission of a crime. The Gun Show Loophole Closing Act helps achieve that goal.

Under the existing Brady law, when a purchaser buys a gun from a licensed dealer, he or she must undergo a background check through the Federal Gov-

ernment's National Instant Criminal Background Check System (“NICS”), into which States feed records of certain criminals and others not qualified to own a gun. NICS has up to three days to inform the dealer as to whether the buyer is qualified to purchase a gun. If the dealer receives no response by the end of the three-day period, the dealer is allowed to sell the gun to that buyer. Ninety-five percent of NICS checks, however, do not take three days. They come up with an instant or near instant response.

This bill we are introducing today simply applies the same common-sense checks to gun show sales. Right now, there is no statute requiring that all sellers at gun shows run NICS checks on potential gun buyers; however, according to Federal officials, gun shows are the second leading source of illegal guns recovered from gun trafficking investigations. By leaving this loophole open—by not requiring all gun show sellers to run NICS checks—we are presenting gun traffickers and other criminals with a prime opportunity to acquire firearms. This is terrifying and this is unacceptable. Only last week, Federal authorities arrested a Georgia man who sold large quantities of firearms at Georgia gun shows. These firearms have been recovered in subsequent crimes in New York, New Jersey, Michigan, and here in Washington, DC.

Furthermore, following the attacks on September 11th, it came to light that Al Qaeda produced a handbook in which it advised terrorists to purchase firearms at gun shows in the United States. In fact, at least three suspected terrorists have exploited this loophole to acquire firearms. Therefore, it is imperative, now more than ever, to enact legislation to protect our citizens from this potential area of terrorist exploitation.

This bill is common sense. The laws for purchasing firearms at gun shows and stores should be the same. We have the same responsibility to make sure that gun owners are qualified—regardless of where they buy their guns. This bill closes the gun show loophole in a way that respects the Second Amendment and honest, law-abiding Americans' right to buy and sell guns and attend gun shows. That's good law. That's good policy. That's why we should pass this bill.

Mr. LIEBERMAN. Mr. President, I am proud to join Senators MCCAIN, REED, DEWINE, LAUTENBERG, SCHUMER and CHAFEE in introducing this important legislation. This bill aims to build common ground on gun violence—a problem that has too often divided Members of Congress. As citizens of this great Democracy, we have rights and we have responsibilities. We have the right to own guns, but we have a responsibility not to sell them to criminals. That is the simple but important set of values on which the legislation we introduce today is founded.

For several decades, our Nation has had a clear policy against allowing

convicted felons to buy guns, because we know that mixing criminals and guns far too often yields violent results. Through the Brady law, we established what seems like an obvious corollary to that policy—a requirement that those selling guns determine whether someone trying to buy a firearm isn't supposed to get one before they sell it to them. The Brady law has been an enormous success. Since its enactment, background checks have stopped almost one million gun sales to those who by law aren't allowed to own guns—convicted felons, spouse abusers, fugitives from justice, among others. This has saved an untold number of our citizens from the violence, injury or death the sale of many of these guns would have brought.

But the Brady law contained an unfortunate loophole that has since been exploited to allow convicted felons and other people who shouldn't own guns to evade the background check requirement by buying their guns at gun shows. The problem is that Brady applies only to Federal Firearms Licensees, so-called FFLs—people who are in the business of selling guns. Brady explicitly exempts from the background check requirement anyone “who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms.” As a result, any person selling guns as a hobby or only occasionally, whether at a gun show, flea market or elsewhere, need not obtain a Federal license and therefore has no obligation to conduct a background check. This means that any person wanting to avoid a background check can go to a gun show, find out which vendors are not FFLs, and buy a gun. This situation is dangerous not only because it allows convicted felons and other prohibited persons to buy guns, but also because—in contrast to FFLs—non-FFLs have no obligation to keep records of the transaction, thereby depriving law enforcement of the ability to trace the gun if it later turns up at a crime scene.

Our bill will change that. We will make sure that no one will be able to buy a gun at a gun show without it first being determined whether that person is a convicted felon, a spouse abuser or a member of one of the other categories of people we all agree should not be allowed to buy guns.

Our bill does this, though, by taking into account some of the concerns that were expressed about previous efforts to close this loophole.

First, our bill has a simple definition of a gun show—an event where 75 or more guns are offered or exhibited for sale—and we make clear that that definition doesn't include sales from a private collection by nonlicensed sellers out of their homes.

Second, to respond to the argument that previous proposals made it too difficult for nonlicensed sellers to fulfill the background check requirement, our

bill makes sure that nonlicensed sellers will have easy access to someone who can initiate background checks for them, by creating a new class of licensee whose sole purpose will be to initiate background checks at gun shows.

Third, we have tried to respond to those who say that a three-day check is too long for gun shows, because those events only last a couple of days. It is worth noting that the length allowed for the check doesn't affect the overwhelming majority of gun purchasers, because over 90 percent of checks are completed almost instantly. But to allay the concerns that have been expressed, we have come up with a compromise that authorizes a State to move to a 24-hour check for nonlicensed dealers at gun shows when the State can prove that a 24-hour check is feasible. A State can prove that by showing that 95 percent of the records that would disqualify people in that State from buying guns are computerized and searchable by the NICS system. And, because of the particular need to keep guns out of the hands of spouse abusers, the bill specifically provides that a State must have computerized 95 percent of its domestic violence misdemeanor and restraining order records dating back 30 years before it is eligible to go to a 24-hour check at gun shows.

One significant difference between the bill Senator MCCAIN and I introduced last Congress and the one we introduce today is that my colleague from Rhode Island, Senator REED, has worked with us to craft a single gun show loophole closing bill. I am truly pleased that we can now all go forward together in a unified effort to bring greater responsibility to our gun laws.

Now I know that there are many, including President Bush, who argue that what we need to solve the gun violence problem are not new laws but the enforcement of existing ones. I agree with part of that statement, and firmly support efforts to crack down on those who violate our gun laws. But I believe we must go farther than that, because we will never be able to enforce existing laws unless we close the loopholes in them that criminals exploit. And we all know that there is a big loophole in the provision saying that felons and spouse abusers aren't supposed to buy guns, and that is that criminals know that if they go to a gun show, they will be able to avoid the background check that was set up to keep them from getting guns.

Gun crime remains a critical public safety problem. For too long, differences over finding a solution to that problem have unnecessarily divided the Congress, and the American people have been left to suffer the violent consequences. But the reality is that most of us agree on most of the critical questions. We agree that the laws on the books should be enforced, that the rights of law-abiding gun owners should be protected, and that convicted

felons and spouse abusers shouldn't be able to get guns. The bill we are introducing today would write those principles into law. I hope all of my colleagues support it.

By Mr. SESSIONS (for himself, Mr. HOLLINGS, Mr. LOTT, Mr. SHELBY, Mr. COCHRAN, Mrs. DOLE, Mr. EDWARDS, Mr. INHOFE, and Mrs. HUTCHISON):

S. 1808. A bill to provide for the preservation and restoration of historic buildings at historically women's public colleges and universities; to the Committee on Energy and Natural Resources.

Mr. SESSIONS. Mr. President, today I rise to re-introduce legislation to help preserve the heritage of seven historic women's colleges and universities. The legislation would authorize the Secretary of Housing and Urban Development to provide restoration and preservation grants for historic buildings and structures at seven historically women's public colleges or universities. The bill directs the Secretary to award \$14 million annually from fiscal years 2004 through 2008 to the seven institutions.

The sweeping changes of the industrial revolution prompted Congress in 1862, with further action in 1887 and 1890, to provide Federal support for the establishment of agricultural and mechanical colleges with growing emphasis on industrial and technical education. Unfortunately, these “land-grant” schools were only for men, leaving women untrained as they entered the expanded work force. Women's advocates, such as Miss Julia Tutwiler in Alabama, immediately recognized the need for institutions where women could receive an equal education. Beginning in 1884, seven institutions in seven separate States were established as industrial schools for women. These institutions include the Mississippi University for Women, the University of Montevallo in Alabama, Georgia College and State University, Winthrop University in South Carolina, University of North Carolina at Greensboro, Texas Women's University, and the University of Science and Arts of Oklahoma. These seven institutions remain open, providing a liberal arts education for both men and women, but retain significant historical and academic features of those pioneering efforts to educate women. Despite their continued use, many of the structures located on these campuses are facing destruction or closure because preservation funds are not available. My legislation would enable these buildings to be preserved and maintained by providing funding for the historic buildings located at the colleges and universities I have identified. No more than \$14 million would be available and would be distributed in equal amounts to the seven institutions. My bill also requires a 20 percent matching contribution from non-Federal sources and assures that alterations to the properties using the funds

are subject to approval from the Secretary of Housing and Urban Development and reasonable public access for interpretive and educational purposes.

These historically women's colleges and universities have contributed significantly to the effort to attain equal opportunity through postsecondary education for women, many of whom would not have had the opportunity otherwise. I believe it is our duty to do all we can to preserve these historic institutions, and I ask my colleagues for their support.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 256—OBSERVING THE 50TH ANNIVERSARY OF THE MUTUAL DEFENSE TREATY BETWEEN THE UNITED STATES AND THE REPUBLIC OF KOREA, AFFIRMING THE DEEP COOPERATION AND FRIENDSHIP BETWEEN THE PEOPLE OF THE UNITED STATES AND THE PEOPLE OF THE REPUBLIC OF KOREA, AND THANKING THE REPUBLIC OF KOREA FOR ITS CONTRIBUTIONS TO THE GLOBAL WAR ON TERRORISM AND TO THE STABILIZATION AND RECONSTRUCTION OF AFGHANISTAN AND IRAQ

Mr. BIDEN (for himself, Mr. LUGAR, Mr. KERRY, Mr. BROWNBACK, Mr. DODD, and Mr. HAGEL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 256

Whereas October 1, 2003, marked the 50th anniversary of the signing of the Mutual Defense Treaty between the United States of America and the Republic of Korea, signed at Washington October 1, 1953, and entered into force November 17, 1954 (hereinafter referred to as the "Mutual Defense Treaty");

Whereas the United States and the Republic of Korea have formed a bond through the common struggle against communist aggression;

Whereas more than 34,000 Americans lost their lives fighting in the Korean War, and approximately 37,000 men and women of the United States Armed Forces are still deployed on the Korean peninsula, enduring separation from their families and other hardships in the defense of freedom;

Whereas the Mutual Defense Treaty has been instrumental in securing peace on the Korean peninsula and providing an environment in which the Republic of Korea has become an economically vibrant, free, democratic society;

Whereas the foundation of the Mutual Defense Treaty rests not only on a common adversary, but more importantly on a shared interest in, and commitment to, peace, democracy, and freedom on the Korean peninsula, in Asia, and throughout the world;

Whereas the United States and the Republic of Korea are working closely together to find a diplomatic solution to the threat posed by North Korea's pursuit of nuclear weapons and the export by North Korea of ballistic missiles;

Whereas the Republic of Korea is making valuable contributions to the global war on terrorism, including the contribution of logistics support for international forces operating in Afghanistan;

Whereas the Republic of Korea has pledged \$260,000,000 and has already sent 700 military engineers and medical personnel to assist in the United States-led effort to stabilize and reconstruct Iraq; and

Whereas South Korea President Roh Moo-hyun pledged on October 18, 2003, to dispatch additional troops to work alongside United States and coalition forces in Iraq; Now, therefore, be it

Resolved, That the Senate—

(1) observes the 50th anniversary of the Mutual Defense Treaty between the United States of America and the Republic of Korea, signed at Washington October 1, 1953, and entered into force November 17, 1954;

(2) reaffirms the deep cooperation and friendship between the people of the United States and the people of the Republic of Korea; and

(3) thanks the Republic of Korea for its contributions to the global war on terrorism and to the stabilization and reconstruction of Afghanistan and Iraq.

Mr. BIDEN. Mr. President, this resolution is cosponsored by my distinguished colleague, the chairman of the Committee on Foreign Relations, Senator LUGAR, as well as Senators KERRY, BROWNBACK, DODD, and HAGEL. It recognizes the 50th anniversary of the United States-Republic of Korea Mutual Defense Treaty and is thanking the Republic of Korea for its contributions to the global war on terrorism.

The United States has no better friend in Asia than the Republic of Korea. South Koreans have been there for us time and again, just as we have been for them.

Our alliance has paid dividends on and off the Korean Peninsula. Most recently, South Korea has aided the U.S. effort in Afghanistan and Iraq. South Korea has already sent 700 military engineers and medical personal to Iraq, and President Roh pledged on October 18 to dispatch additional troops to work alongside U.S. forces there. South Korea has also pledged \$260 million in grants to help reconstruct Iraq.

The resolution I offer today observes the 50th anniversary of our alliance, thanks South Korea for its contributions to the global war on terrorism, and reaffirms the deep cooperation and friendship that exists between our two countries.

That cooperation and friendship are sorely needed now, given the challenges posed by North Korea. North Korea today is on the verge of becoming a nuclear bomb factory. The United States needs to redouble its diplomatic efforts to persuade North Korea to change its course.

President Bush, I note, has repeatedly called for a "peaceful, diplomatic" solution to this crisis, and has worked with our friends and allies in that region toward that goal. I believe President Bush's instincts are correct on this issue.

Last week President Bush told the leaders of Asia that the United States is prepared to provide security assurances to North Korea if North Korea takes tangible steps to dismantle its nuclear program. I find that very encouraging. But in my view we need to

do more. That is essentially where we left off at the end of the last administration, when we were working within the Agreed Framework.

What we need to do is have more contact with North Korea. There were only 40 minutes of one-on-one dialog with North Korea last August in Beijing. That, with the translation requirements in such an exchange, is barely enough time to clear one's throat.

Second, we should use the combination of carrots and sticks to convince North Korea to change its course. The sticks are in play, including the proliferation security initiative and a coordinated crackdown on the North's illicit activities, including narcotics trafficking and counterfeiting, among others.

We need to identify as well some incentives for the good behavior that would come if, in fact, there is a verifiable North Korean effort along the path toward nuclear disarmament. This is not giving in to blackmail. It is a positive reinforcement, and there is a huge difference between the two.

Third, we need to sustain and consider increasing humanitarian food and medical aid to North Korea. Nothing about this crisis will be improved by having more hungry or sick North Korean children. This year, the United States provided only 40,000 tons of food aid to the North a generous donation, to be sure, but a pittance against the world program appeal of more than 600,000 tons is needed, and far below the food aid levels the United States has provided in previous years.

I note there is some dispute about the access of this food aid to the people of North Korea, people we need to help. The fact is the World Food Program and the director have reported significant progress towards monitoring delivery of food and ensuring that the aid reaches those most in need. Further, the food aid we have provided we seem fairly well assured is in fact getting where it is intended.

Finally, we need to speak with one voice. The administration has yet to fully resolve the deep internal divisions over the direction of the President's policy. Some senior officials in the administration continue to argue against this policy of engagement. As a matter of fact, they seem to occasionally look forward to tweaking the North Koreans. I might add there is very little social redeeming value in the policies of Kim Jong Il in North Korea. I am not arguing he is a particularly reasonable man, but it seems to me there should be one voice and one policy coming out of the administration. Prospects for diplomatic solutions are in direct proportion to one voice.

To state the obvious, as I know the Presiding Officer knows, time is not our ally in this crisis. The United States needs to communicate both the risks of North Korea's current path and the benefits North Korea could enjoy if it chooses to verifiably abandon its

pursuit of nuclear weapons and its export of ballistic missiles. Since the United States first confronted North Korea with allegations about its illegal program to produce highly enriched uranium last October, the North has ended its safeguards agreement with the International Atomic Energy Agency, withdrawn from the Nuclear Non-Proliferation Treaty, taken its plutonium reprocessing plant out of mothballs, begun to reprocess at least some of its 8,000 spent-fuel rods, and has activated its Yongbyon nuclear reactor to produce still more spent fuel.

I am not suggesting we should not have pointed out their violation. I am not suggesting their response is remotely approaching anything rational. What I am suggesting is a sense of urgency and a requirement for us to be on the same page with our South Korean and Japanese friends as well as continuing to engage the Chinese and the Russians in attempting to come to a resolution here.

The North's pursuit of nuclear weapons poses a great threat to the interests not only of the United States but to the entire region. As the North's stockpile of fissile material grows, the likelihood the North will test a nuclear weapon and prove the viability of its design increases, as does the difficulty of securing the North's fissile material in any crisis. Moreover, we have no guarantee North Korea will not export fissile material. All we know for certain is if the North puts a nuke on the auction block, the bidders are not likely to be our friends.

Finally, the North's nuclear ambitions could prompt other countries in the region—notably Japan and South Korea—to rethink their own opposition to nuclear arms. I don't only think that is probable but I think that is likely. As we all know, once Japan made that decision, it would be a matter of months before Japan would be a nuclear armed power. We think that would be a very bad idea. That, in my view, is why the Chinese have become so engaged now in helping us put some pressure on these multilateral talks with South Korea to get them to change their behavior. I believe China understands that if North Korea continues down this path, there is almost a certainty Japan will. Japan becoming a nuclear power would change the dynamic and the equation for the Chinese, and the race will be on.

The President has the right goal—to complete verifiable and irreversible dismantlement of the North's nuclear weapons program. The only debate is how do we get there. I think the way we get there is the President should either endow Assistant Secretary of State James Kelly with more authority to drive North Korean policy or, alternatively, appoint a special envoy with access to the President to represent the United States in future negotiations. Second, we should strive for a noncoercive negotiating environment.

This means that North Korea should freeze its reactor, cease all reprocess-

ing and uranium enrichment activities, and place under safeguards any fissile material that it has acquired since the Agreed Framework of 1994 was signed. For our part, the United States should reiterate that it has no hostile intent toward North Korea and pledge not to launch any military strikes or seek new sanctions so long as the freeze remains in place and talks to resolve the crisis continue.

Finally, we should pursue a phased, reciprocal, verifiable agreement to eliminate North Korea's nuclear weapons program, terminate its export of ballistic missiles, and more closely integrate the North into the community of nations.

Some say North Korea cannot be trusted. They are right. Modifying President Reagan's maxim, we should mistrust, and verify.

But the alternatives to negotiating are grim. Our current approach leads to one of two undesirable outcomes: Either the United States will essentially acquiesce to the North's serial production of nuclear weapons or we may find ourselves in a military confrontation with a desperate, nuclear-armed regime. Any preemptive military strike option would place millions of South Koreans and tens of thousands of Americans at risk.

How do we go to war with the North if the South does not support it, if that were the second option?

Negotiations with North Korea are not easy, but they offer us the best chance—I believe the only chance—to avoid a nuclear nightmare on the Korean peninsula.

I would like to submit a bipartisan staff report by the members of the Senate Foreign Relations Committee who traveled to North Korea immediately following the six-party talks in Beijing in August. I ask unanimous consent that it be printed in the RECORD following my marks.

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

(See exhibit 1.)

Mr. BIDEN. Mr. President, let me conclude by saying today's paper carries the news that the quixotic and unreliable and often inscrutable actions of the North Koreans have brought the Supreme Leader of North Korea to the position where he is now saying he will engage in multilateral talks again and resume those talks, and that he is ready to consider what has been rejected before.

That is the sense of the article.

I have no inherent faith that we can rely upon the President of North Korea. But it seems to me we have everything to gain and nothing to lose by continuing to pursue these talks. We give nothing, and at a minimum what we do is put ourselves in the position where the most isolated remaining country in the world at least is exposed to the notions of other major nations in the world, including China, Russia, South Korea, Japan, and the United States as to what we consider to be ap-

propriate behavior. Hopefully, that will have a salutary impact on the willingness to negotiate an end to these programs.

The alternative of not pursuing that is bleak. Therefore, I encourage the President of the United States to continue down this path and to continue down the path more quickly than we have thus far.

EXHIBIT 1

SIX PARTY TALKS AND THE NORTH KOREAN NUCLEAR ISSUE

OCTOBER 14, 2003.

Hon. RICHARD LUGAR,
Chairman, Committee on Foreign Relations.

Hon. JOSEPH R. BIDEN,
Ranking Member, Committee on Foreign Relations.

DEAR SENATORS LUGAR AND BIDEN: In late August, Keith Luse and Frank Jannuzi traveled to China and North Korea, and Mr. Jannuzi traveled to South Korea, to examine the prospects for a peaceful negotiated solution to the North Korean nuclear issue and to follow-up on an earlier set of visits to North Korea in an effort to gain greater transparency on food aid issues. Throughout the course of the visit, the staff delegation received commendable support from U.S. Diplomatic personnel. The delegation enjoyed high level access to Chinese, North Korean, and South Korean government officials, and also met with numerous academics, think tank specialists, and employees of non-governmental organizations concerned with developments on the Korean Peninsula. Our key findings, including some recommendations for next steps on the Korean Peninsula, are reported below.

Sincerely,

KEITH LUSE,
*Professional Staff
Member, Majority
Staff, East Asian
and Pacific Affairs,
Senate Foreign Relations
Committee.*

FRANK JANNUZI,
*Professional Staff
Member, Minority
Staff, East Asian
and Pacific Affairs,
Senate Foreign Relations
Committee.*

SUMMARY

Senate Foreign Relations Committee (SFRC) staff members Keith Luse and Frank Jannuzi traveled to Northeast Asia August 21–September 2 to examine the prospects for a peaceful negotiated solution to the North Korean nuclear issue and to follow-up on their earlier set of visits to North Korea designed to push for greater North Korean transparency and accountability on food aid and humanitarian relief. The delegation expresses its appreciation to U.S. diplomatic personnel at Embassies Beijing and Seoul who helped set up productive meetings and coped with the vagaries of arranging travel to and from the Democratic People's Republic of Korea (DPRK).

Over the course of three days in Pyongyang, the delegation held a variety of meetings with officials representing the DPRK, the United Nations, and non-governmental organizations (see list of interlocutors, attached). The delegation told senior DPRK officials that the United States views North Korea's nuclear ambitions as a grave threat to international peace and stability and urged the DPRK to seek a peaceful, negotiated solution to the crisis through multilateral dialogue. The delegation visited select humanitarian relief operations, making

the point that such efforts are tangible proof that the United States has no hostile intent toward North Korea. SFRC staff strongly advised DPRK officials that they should permit greater transparency for food aid deliveries under the auspices of the World Food Program and various non-governmental organizations. The delegation pressed DPRK officials to adhere to international standards of human rights, including respect for religious freedom, and emphasized that the United States' concern for the human rights situation in North Korea reflects the deeply held convictions of the American people.

KEY FINDINGS

Six party talks in Beijing helped improve coordination among the five nations trying to reign in North Korea's nuclear ambitions, but DPRK officials left the talks unconvinced that the United States genuinely seeks a peaceful, negotiated solution to the crisis. DPRK officials told the staff delegation that they believe the true aim of the United States is "regime change," and that de-nuclearization is just the first step toward that objective.

Under pressure from China, the DPRK probably will come to another round of multilateral talks. However, China's encouragement for DPRK's participation will be contingent on the United States outlining specific steps it will take once the DPRK pledges to dismantle/eliminate its nuclear program. Talks could easily be derailed should North Korea decide to launch a ballistic missile or even test a nuclear weapon. Moreover, North Korea might scuttle the talks in response to the appropriate and necessary U.S. efforts to enforce the Proliferation Security Initiative (PSI) and the Illicit Activities Initiative, both of which the North interprets as attempts to "strangle" the regime.

Some North Korean officials believe that the United States continues to station nuclear weapons in South Korea.

Decision-making in the DPRK is centralized and ultimate authority rests with Kim Jong-il.

Top officials in North Korea are carefully monitoring polling data reflecting opinion on domestic politics in the United States, Japan and South Korea.

The World Food Program has taken some small, but significant steps in recent months to enhance its operations in the DPRK and reduce the likelihood of diversion of food aid. The significant reduction in U.S. food aid to North Korea (from a high of more than 300,000 tons/year to this year's 40,000 tons) may have undercut United States leverage in pressing for greater transparency on food aid. North Korean officials are convinced the United States is using food as a weapon.

Humanitarian operations run by non-governmental organizations—such as the Nautilus Institute's Village Wind Power Pilot Project and the Eugene Bell Foundation's tuberculosis treatment programs—are making important contributions to the welfare of the North Korean people and help allay DPRK suspicions about the intentions of the United States, thereby contributing to an overall political environment conducive to resolution of sensitive security issues.

After extensive discussion with the delegation, Vice Minister Kim Gye Gwan advised the DPRK would allow NGO access to some prison camps on a "case by case" basis.

There were two key differences to our earlier trips. While we were not allowed to make purchases, street vendors were present throughout Pyongyang and in Nampo, selling food and other small items. Additionally, the DPRK military appeared to be at a higher state of alert. More soldiers were armed than during our previous visits.

DISCUSSION

North Korea isolated . . .

Over the course of three days in North Korea, the staff delegation found DPRK officials to be disappointed by the six party Beijing talks, which they described as "five against one." In both formal meetings and informal settings, DPRK officials described the Beijing talks as "pointless" and cast doubt upon whether the North would be willing to engage in future rounds of multiparty dialogue. DPRK officials were critical of the fact that they had only 40 minutes of "direct" dialogue with U.S. Assistant Secretary of State James Kelly over the course of three days of talks in Beijing, and said they had been misled into believing the multilateral talks would provide a venue for substantive one-one-one discussions with the U.S. envoy.

In one particularly blunt exchange, DPRK Vice Foreign Minister Kim Gye Gwan told the staff delegation that the Beijing talks had "confirmed" the North's assessment that the United States has no intention of changing its "hostile policy." Kim said the DPRK, "had no choice but to maintain and reinforce its nuclear deterrent."

The SFRC delegation conveyed their personal views that a North Korean decision to enhance its nuclear weapons capabilities would be viewed by the United States as a grave threat to international peace and security and would be interpreted by Americans as a hostile act. The delegation urged the DPRK to proceed with multiparty dialogue and to refrain from any provocative actions.

DPRK officials were non-committal with respect to any future dialogue, but after the staff delegation's departure, the DPRK Foreign Ministry issued a statement claiming that the North remains "equally prepared for dialogue and for a war." This statement represented a slight softening of the stance articulated immediately after the Beijing talks, and certainly leaves the door open to another round of multi-party talks in Beijing or some other venue.

With strong encouragement from China (a senior delegation from China visited the DPRK in late September), the DPRK may agree to another round of six-party talks, if only to avoid being held directly responsible for a breakdown of the diplomatic process. It remains unclear what stance the DPRK will take at any future talks, and at what level they will be represented. Decision-making in the DPRK is highly centralized, with Kim Jong-il wielding the ultimate authority. Junior level DPRK officials such as Kim Yong-il, who represented the DPRK in Beijing in August, often are unable to engage in substantive dialogue, a fact which argues for the United States to try to elevate the talks to engage officials with real authority and the ear of Kim Jong-il.

. . . and wary of U.S. intentions

The difficult of communicating with the North Koreans was evident throughout the staff delegation's visit to Pyongyang, highlighting the risk that conflict could arise from miscalculation or mis-communication. North Korean officials with whom we met had an imperfect understanding of United States security policy, especially the recently issued National Security Strategy and Nuclear Force Posture Review. They repeatedly expressed their belief that both documents called for pre-emptive nuclear strikes against North Korea, and said the North's own nuclear program was necessary to counter this United States "nuclear threat."

Sometimes, confusion arose out of the imprecision of different English terms. DPRK officials asked the staff delegation to clarify the different meanings "simultaneous," "synchronous," "phased," and "reciprocal."

Attention to such detail suggests the DPRK is actively studying how the nuclear issue might be resolved given what they characterized as the "zero trust" which exists between the two parties.

DPRK officials took note of recent U.S. efforts to curtail North Korean involvement in narcotics trafficking, counterfeiting, and other illicit activities. DPRK officials flatly denied North Korean involvement in such illicit activities, and alleged that the United States had trumped up the charges as part of a more general campaign to "stifle" the DPRK.

Food aid: slow progress on transparency and accountability

The staff delegation met with the Flood Damage Rehabilitation Committee (FDRC) director Jong Yun-hyong, who oversees agricultural reconstruction as well as foreign food aid programs. The delegation explained to Yum that it is essential for the DPRK to enhance transparency for food aid, to open up counties currently off-limits, and to provide random access to WFP monitors seeking to verify food aid deliveries. The delegation told Yum that the level of monitoring requested by WFP was consistent with international norms, and that the DPRK could not expect donors and potential donors to contribute food aid if they did not have high confidence that the aid was reaching its intended recipients.

Yun said that security issues are paramount for the DPRK, and that the military would not permit international access to certain sensitive regions of the country. He also said that monitoring had greatly improved since food aid began to flow during the North Korean famine of the mid-1990's. Yun specifically cited the recent U.N. nutritional survey, and reported that "security officials" had initially objected to the survey, but that FDRC officials had prevailed in an inter-agency battle in order to permit the survey to be conducted. Yun argued that recent significant reductions in WFP food aid—just 300,000 metric tons in 2002, down from 811,000 tons in 2001—had made it more difficult for him to push for greater numbers of monitors and greater access for international observers. Nonetheless, Yun promised progress on monitoring in the future, and invited the international community to shift its humanitarian aid strategy away from food donations and toward "sustainable development," including agricultural reforms, new seed varieties and planting techniques, and "food for work."

The delegation met with World Food Program country director Rick Corsino, who reported slow, but significant progress toward enhanced monitoring of food aid and ensuring that aid reaches those most in need. These are the highlights:

First, WFP has terminated food aid to 17 of 21 districts of the capital city of Pyongyang after concluding that residents of the capital are on average better fed than those of outlying areas. This is an important step, both symbolically, and substantively.

Second, with the full knowledge and support of DPRK authorities, WFP is conducting Korean language training for food aid personnel stationed inside the DPRK. The DPRK continues to object to WFP bringing in Korean-speaking experts from overseas, but the growing language facility of WFP's foreign staff allows for smoother interaction with DPRK officials and higher quality monitoring in the field.

Third, WFP has increased the number of monthly inspection visits and now has approximately 50 international staff in residence in Pyongyang and at five sub-offices located in Sinuiju, Wonsong, Hamhung, Chongjin, and Hyesan. WFP is the only

international agency working in the country with international staff permanently placed outside the capital.

Fourth, WFP has sustained its access to 162 of 206 total counties in North Korea. WFP does not deliver food aid to those counties that remain off limits, most of which are concentrated along the sparsely populated mountainous "spine" of the country and along the DMZ (see attached map).

Finally, through its inspection visits, WFP is gradually building a detailed database of schools, hospitals, orphanages, and other institutions receiving WFP assistance. Although the DPRK still has not provided a comprehensive list of aid recipients—a list long requested by WFP officials—the WFP is essentially building its own list with each inspection visit.

NGO's making contribution to welfare of average North Koreans

Although WFP is the largest humanitarian organization working in North Korea, they are not the only international organization operating in North Korea. The staff delegation made a point of visiting two humanitarian operations supported by U.S. non-governmental organizations; the Village Wind Power Pilot Project run by the Nautilus Institute (with significant financial support provided by the W. Alton Jones Foundation) and a tuberculosis treatment hospital and mobile van sponsored by the Eugene Bell Foundation. These initiatives have fostered good will on a "people-to-people" basis, and have measurably improved the quality of life for the North Korean beneficiaries.

Wind power

The US-DPRK Village Wind Power Pilot Project was the first attempt by a United States NGO to work side-by-side with North Koreans in cooperative development. Previously, non-governmental organizations had been limited by both Washington and Pyongyang to delivering food aid to North Korea. The project installed seven technologically advanced wind turbine towers in a rural village on the west coast of North Korea near the port of Nampo. This region is known as a bread basket for North Korea, rich in arable land and other natural resources, including steady breezes off of the Korea Bay. The turbines provide clean, renewable energy to the village's medical clinic, kindergarten, and 67 households. In addition, a wind-powered water pump irrigates the village's fields, and has significantly boosted yields, according to villagers. The combined generating capacity of the turbines is 11.5kW.

Since the wind power project was completed in 1999, it has had its share of ups and downs. At present, the delegation found that the facility was not operating at full capacity due to maintenance problems with two inverters and damaged batteries. North Korea lacks adequately trained technicians to service the equipment, and the nuclear stand-off has disrupted visits by foreign experts needed to assess the maintenance requirements and make needed repairs.

Despite these difficulties, the DPRK participants in the project remain enthusiastic about it as a model for rural electrification, and hope to press ahead with a major wind-power survey project along the west coast in coming months. DPRK authorities told the visiting Senate staff delegation that deciding to proceed with the wind power survey requires approval from military officials worried about the collection of militarily sensitive meteorological information. Notwithstanding the sensitive nature of the data to be collected, DPRK officials believe the project will move ahead. Wind power projects could alleviate severe shortages of power in rural areas, and have the advantage

of not requiring major upgrades in North Korea's electric power grid—a grid that experts have found to be in need of major overhaul before it could accommodate the introduction of large new power plants such as the light water nuclear reactors contemplated under the Agreed Framework.

Tuberculosis treatment

Since 1995, the Eugene Bell Foundation has been working inside North Korea to fight deadly diseases like tuberculosis (TP). Eugene Bell foundation currently coordinates the delivery of TB medication, diagnostic equipment, and supplies to 1/3 of the North Korean population and approximately 50 North Korean treatment facilities (hospitals and care centers). The staff delegation visited one such hospital in Pyongyang, and also inspected one of the 17 mobile x-ray vehicles designed to navigate the North's antiquated road network.

The delegation found the Eugene Bell project to be characterized by high standards of transparency and efficiency. The foundation conducts regular site visits (more than 60 since 1995) and is able to donate goods directly to recipients rather than through third parties or government intermediaries. Staff at the hospital we visited appeared well trained and highly motivated. They were deeply appreciative of the support they receive from the United States and recognized that this humanitarian outreach occurs even at a time when the two nations do not maintain normal diplomatic relations. The Eugene Bell foundation supports 16 TB hospitals and 64 TB care centers in the DPRK. More than 200,000 patients have been treated. Moreover, serving as a conduit, the Eugene Bell foundation is currently responsible for sending tuberculosis medicine, medical aid, and equipment for approximately 1/3 of the North Korean population.

Joint recovery operations

The staff delegation met with Sr. Col. Kwak Chol-hui of the Korean People's Army, the director of the Joint Recovery Operation searching for the remains of U.S. servicemen left behind after the Korean War. The United States estimates that as many as 8,000 remains of U.S. servicemen are on DPRK soil. So far, only 378 of these remains have been recovered. More than 200 remains were found as the result of unilateral DPRK searches and returned to the United States. Just over 170 sets of remains have been recovered through the joint recovery operation.

The recovery operations are laborious. Historical records can indicate likely search areas, but only eye witnesses can pinpoint the possible locations for remains. As the population ages and the terrain of North Korea is shaped by construction, erosion, flooding, and other forces, it is becoming increasingly difficult to locate remains. Even after likely sites are identified, time-consuming excavations and careful forensic work are necessary to find and identify remains. U.S. and North Korean military personnel work side by side in the field during the recovery operations. According to U.S. participants in the operation, this interaction in the field has been constructive, deepening our understanding of the Korean People's Army.

Colonel Kwak told the delegation that the DPRK would like to expand the joint recovery operation, employing as many as 2,700 investigators to scour the country to conduct interviews with those elderly North Korean who might have knowledge of the location of U.S. remains. He indicated that the DPRK's commitment to the recovery operations is independent of the nuclear issue, and, in his opinion, should remain so. It is unclear, however, what role the DPRK envisions for U.S. forces in such an expanded operation. The

staff delegation believes that any expansion should be made contingent on greater U.S. access to those North Korean citizens claiming to have first-hand knowledge of the whereabouts of remains.

STAFF CONCLUSIONS

So as to reduce what we believe is a significant risk of conflict arising out of miscalculation or miscommunication, the United States should greatly expand dialogue with North Korea, both within the framework of multi-party talks, as well as through informal or "Track II" bilateral negotiations.

The United States should appoint a senior official to represent the United States solely on issues related to the Korean Peninsula. Alternatively, the Administration should endow the current negotiator, Assistant Secretary of State James Kelly, with greater authority to direct and coordinate the President's North Korea policy and gain access to more senior North Korean officials.

The United States should acknowledge recent improvements in WFP operations and continue food aid to the DPRK under UN auspices. The United States should also consider funneling a portion of future U.S. food aid through non-governmental organizations, some of which have been able to achieve strong monitoring capability for their humanitarian relief.

The U.S. should search for ways to expand outreach efforts by NGOs in the fields of rural energy development, agriculture, and public health.

The Joint Recovery Operation to identify the remains of U.S. servicemen from the Korean War affords the United States valuable contact inside North Korea. Any expansion of the operation, however, should be made contingent upon greater U.S. access to those North Korean citizens claiming to have first-hand knowledge of the whereabouts of remains.

LIST OF INTERLOCUTORS

In Beijing, China

- Michael Green, Director Asian Affairs, National Security Council
- David Straub, Korea Desk, U.S. Department of State
- Wang Yi, Vice Foreign Minister, Chinese Ministry of Foreign Affairs
- Fu Ying, Director General, Asian Department, Chinese Ministry of Foreign Affairs
- He Yafei, Director General, North American Department, Chinese Ministry of Foreign Affairs
- Liu Jinsong, First Secretary, Asian Department, Chinese Ministry of Foreign Affairs
- Piao Jianyi, Executive Director, Center for Korean Peninsula Issues, Chinese Academy of Social Sciences
- Gu Guoliang, Director, Center for Arms Control and Nonproliferation Studies, Deputy Director, Institute of American Studies, Chinese Academy of Social Sciences
- Wang Jisi, Director, Institute of International Strategic Studies, Central Party School
- Wu Baiyi, Deputy Director, Research Division, China Institute of Contemporary International Relations
- Yang Mingjie, Director, Division of Arms Control and Security Studies, China Institute of Contemporary International Relations
- Wei Zonglei, Deputy Director, Center of U.S.-European Studies, China Institute of Contemporary International Relations
- Shi Yinhong, Director, Center for American Studies, People's University
- Ruan Zongze, Vice President, China Institute of International Studies

Liu Xuecheng, Director of American Studies, China Institute of International Studies
 Shen Dingli, Deputy Director, Center for American Studies, Fudan University
 Zhu Feng, Director of International Security Program, Beijing University

In North Korea

Kim Gye Gwan, Vice Minister of Foreign Affairs
 Jong Dong-hok, First Secretary, United States Department, Ministry of Foreign Affairs
 Lee Yong Chol and Kim Yong Nam, United States Department, Ministry of Foreign Affairs
 Jong Yun-hyong, Director Flood Damage, Reconstruction Committee
 Sr. Col. Kwak Chol-hui, Director, Joint Recovery Operation, Korean People's Army
 Lt. Col. Li Jong Sop, Deputy Director, Joint Recovery Operation, Korean People's Army
 Lt. Col. Byon Sol-hok, Joint Recovery Operation
 Kim Song, Secretary General, Korean National Peace Committee
 Richard Corsino, Country Director, World Food Program

In South Korea

Wi Sung-lac, Director General, North American Affairs, Ministry of Foreign Affairs
 Park Joeng-nam, Deputy Director, North American Affairs, Ministry of Foreign Affairs
 Yang Chang-suk, Director of International Cooperation, Ministry of Unification
 Park Ro-Byung, Chief, Policy Coordination Bureau, National Security Council, Blue House
 Kim Taewoo, Nuclear Policy Specialist, Korean Institute for Defense Analyses
 Pak Yeong-tae, Korea Institute for Defense Analyses

HEALTHY FORESTS RESTORATION ACT OF 2003

On Thursday, October 30, 2003, the Senate passed H.R. 1904, as follows:

H.R. 1904

Resolved, That the bill from the House of Representatives (H.R. 1904) entitled "An Act to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to plan and conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes.", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Healthy Forests Restoration Act of 2003".

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Purposes.
- Sec. 3. Definitions.

TITLE I—HAZARDOUS FUEL REDUCTION ON FEDERAL LAND

- Sec. 101. Definitions.
- Sec. 102. Authorized hazardous fuel reduction projects.
- Sec. 103. Prioritization.
- Sec. 104. Environmental analysis.
- Sec. 105. Special administrative review process.
- Sec. 106. Judicial review in United States district courts.

- Sec. 107. Effect of title.
- Sec. 108. Authorization of appropriations.

TITLE II—BIOMASS

- Sec. 201. Findings.
- Sec. 202. Definitions.
- Sec. 203. Grants to improve commercial value of forest biomass for electric energy, useful heat, transportation fuels, compost, value-added products, and petroleum-based product substitutes.
- Sec. 204. Reporting requirement.
- Sec. 205. Improved biomass use research program.
- Sec. 206. Rural revitalization through forestry.

TITLE III—WATERSHED FORESTRY ASSISTANCE

- Sec. 301. Findings and purposes.
- Sec. 302. Watershed forestry assistance program.
- Sec. 303. Tribal watershed forestry assistance.

TITLE IV—INSECT INFESTATIONS AND RELATED DISEASES

- Sec. 401. Findings and purpose.
- Sec. 402. Definitions.
- Sec. 403. Accelerated information gathering regarding forest-damaging insects.
- Sec. 404. Applied silvicultural assessments.
- Sec. 405. Relation to other laws.
- Sec. 406. Authorization of appropriations.

TITLE V—HEALTHY FORESTS RESERVE PROGRAM

- Sec. 501. Establishment of healthy forests reserve program.
- Sec. 502. Eligibility and enrollment of lands in program.
- Sec. 503. Restoration plans.
- Sec. 504. Financial assistance.
- Sec. 505. Technical assistance.
- Sec. 506. Protections and measures.
- Sec. 507. Involvement by other agencies and organizations.
- Sec. 508. Authorization of appropriations.

TITLE VI—PUBLIC LAND CORPS

- Sec. 601. Purposes.
- Sec. 602. Definitions.
- Sec. 603. Public Land Corps.
- Sec. 604. Nondisplacement.
- Sec. 605. Authorization of appropriations.

TITLE VII—RURAL COMMUNITY FORESTRY ENTERPRISE PROGRAM

- Sec. 701. Purpose.
- Sec. 702. Definitions.
- Sec. 703. Rural community forestry enterprise program.

TITLE VIII—FIREFIGHTERS MEDICAL MONITORING ACT

- Sec. 801. Short Title.
- Sec. 802. Monitoring of firefighters in disaster areas.

TITLE IX—DISASTER AIR QUALITY MONITORING ACT

- Sec. 901. Short Title.
- Sec. 902. Monitoring of air quality in disaster areas.

TITLE X—HIGHLANDS REGION CONSERVATION

- Sec. 1001. Short title.
- Sec. 1002. Findings.
- Sec. 1003. Purposes.
- Sec. 1004. Definitions.
- Sec. 1005. Land conservation partnership projects in the Highlands region.
- Sec. 1006. Forest Service and USDA programs in the Highlands region.
- Sec. 1007. Private property protection and lack of regulatory effect.

TITLE XI—MISCELLANEOUS PROVISIONS

- Sec. 1101. Forest inventory and management.
- Sec. 1102. Program for emergency treatment and reduction of nonnative invasive plants.
- Sec. 1103. USDA National Agroforestry Center.

- Sec. 1104. Upland Hardwoods Research Center.
- Sec. 1105. Emergency fuel reduction grants.
- Sec. 1106. Eastern Nevada landscape coalition.
- Sec. 1107. Sense of Congress regarding enhanced community fire protection.
- Sec. 1108. Collaborative monitoring.
- Sec. 1109. Best-value contracting.
- Sec. 1110. Suburban and community forestry and open space program; Forest Legacy Program.
- Sec. 1111. Wildland firefighter safety.
- Sec. 1112. Green Mountain National Forest boundary adjustment.
- Sec. 1113. Puerto Rico karst conservation.
- Sec. 1114. Farm Security and Rural Development Act.
- Sec. 1115. Enforcement of animal fighting prohibitions under the Animal Welfare Act.
- Sec. 1116. Increase in maximum fines for violation of public land regulations and establishment of minimum fine for violation of public land fire regulations during fire ban.

SEC. 2. PURPOSES.

The purposes of this Act are—

- (1) to reduce wildfire risk to communities, municipal water supplies, and other at-risk Federal land through a collaborative process of planning, prioritizing, and implementing hazardous fuel reduction projects;
- (2) to authorize grant programs to improve the commercial value of forest biomass (that otherwise contributes to the risk of catastrophic fire or insect or disease infestation) for producing electric energy, useful heat, transportation fuel, and petroleum-based product substitutes, and for other commercial purposes;
- (3) to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape;
- (4) to promote systematic gathering of information to address the impact of insect and disease infestations and other damaging agents on forest and rangeland health;
- (5) to improve the capacity to detect insect and disease infestations at an early stage, particularly with respect to hardwood forests; and
- (6) to protect, restore, and enhance forest ecosystem components—
 - (A) to promote the recovery of threatened and endangered species;
 - (B) to improve biological diversity; and
 - (C) to enhance productivity and carbon sequestration.

SEC. 3. DEFINITIONS.

In this Act:

- (1) **FEDERAL LAND.**—The term "Federal land" means—
 - (A) land of the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))) administered by the Secretary of Agriculture, acting through the Chief of the Forest Service; and
 - (B) public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), the surface of which is administered by the Secretary of the Interior, acting through the Director of the Bureau of Land Management.
- (2) **INDIAN TRIBE.**—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

TITLE I—HAZARDOUS FUEL REDUCTION ON FEDERAL LAND

SEC. 101. DEFINITIONS.

In this title:

- (1) **AT-RISK COMMUNITY.**—The term "at-risk community" means an area—
 - (A) that is comprised of—
 - (i) an interface community as defined in the notice entitled "Wildland Urban Interface Communities Within the Vicinity of Federal Lands That Are at High Risk From Wildfire" issued by

the Secretary of Agriculture and the Secretary of the Interior in accordance with title IV of the Department of the Interior and Related Agencies Appropriations Act, 2001 (114 Stat. 1009) (66 Fed. Reg. 753, January 4, 2001); or

(i) a group of homes and other structures with basic infrastructure and services (such as utilities and collectively maintained transportation routes) within or adjacent to Federal land;

(B) in which conditions are conducive to a large-scale wildland fire disturbance event; and

(C) for which a significant threat to human life or property exists as a result of a wildland fire disturbance event.

(2) **AUTHORIZED HAZARDOUS FUEL REDUCTION PROJECT.**—The term “authorized hazardous fuel reduction project” means the measures and methods described in the definition of “appropriate tools” contained in the glossary of the Implementation Plan, on Federal land described in section 102(a) and conducted under sections 103 and 104.

(3) **COMMUNITY WILDFIRE PROTECTION PLAN.**—The term “community wildfire protection plan” means a plan for an at-risk community that—

(A) is developed within the context of the collaborative agreements and the guidance established by the Wildland Fire Leadership Council and agreed to by the applicable local government, local fire department, and State agency responsible for forest management, in consultation with interested parties and the Federal land management agencies managing land in the vicinity of the at-risk community;

(B) identifies and prioritizes areas for hazardous fuel reduction treatments and recommends the types and methods of treatment on Federal and non-Federal land that will protect 1 or more at-risk communities and essential infrastructure; and

(C) recommends measures to reduce structural ignitability throughout the at-risk community.

(4) **CONDITION CLASS 2.**—The term “condition class 2”, with respect to an area of Federal land, means the condition class description developed by the Forest Service Rocky Mountain Research Station in the general technical report entitled “Development of Coarse-Scale Spatial Data for Wildland Fire and Fuel Management” (RMRS-87), dated April 2000 (including any subsequent revision to the report), under which—

(A) fire regimes on the land have been moderately altered from historical ranges;

(B) there exists a moderate risk of losing key ecosystem components from fire;

(C) fire frequencies have increased or decreased from historical frequencies by 1 or more return intervals, resulting in moderate changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been moderately altered from the historical range of the attributes.

(5) **CONDITION CLASS 3.**—The term “condition class 3”, with respect to an area of Federal land, means the condition class description developed by the Rocky Mountain Research Station in the general technical report referred to in paragraph (4) (including any subsequent revision to the report), under which—

(A) fire regimes on land have been significantly altered from historical ranges;

(B) there exists a high risk of losing key ecosystem components from fire;

(C) fire frequencies have departed from historical frequencies by multiple return intervals, resulting in dramatic changes to—

(i) the size, frequency, intensity, or severity of fires; or

(ii) landscape patterns; and

(D) vegetation attributes have been significantly altered from the historical range of the attributes.

(6) **DAY.**—The term “day” means—

(A) a calendar day; or

(B) if a deadline imposed by this title would expire on a nonbusiness day, the end of the next business day.

(7) **DECISION DOCUMENT.**—The term “decision document” means—

(A) a decision notice (as that term is used in the Forest Service Handbook);

(B) a decision record (as that term is used in the Bureau of Land Management Handbook); and

(C) a record of decision (as that term is used in applicable regulations of the Council on Environmental Quality).

(8) **FIRE REGIME I.**—The term “fire regime I” means an area—

(A) in which historically there have been low-severity fires with a frequency of 0 through 35 years; and

(B) that is located primarily in low elevation forests of pine, oak, or pinyon juniper.

(9) **FIRE REGIME II.**—The term “fire regime II” means an area—

(A) in which historically there are stand replacement severity fires with a frequency of 0 through 35 years; and

(B) that is located primarily in low- to mid-elevation rangeland, grassland, or shrubland.

(10) **FIRE REGIME III.**—The term “fire regime III” means an area—

(A) in which historically there are mixed severity fires with a frequency of 35 through 100 years; and

(B) that is located primarily in forests of mixed conifer, dry Douglas fir, or wet Ponderosa pine.

(11) **IMPLEMENTATION PLAN.**—The term “Implementation Plan” means the Implementation Plan for the Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment, dated May 2002, developed pursuant to the conference report to accompany the Department of the Interior and Related Agencies Appropriations Act, 2001 (House Report 106-64) (and subsequent revisions).

(12) **MUNICIPAL WATER SUPPLY SYSTEM.**—The term “municipal water supply system” means the reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, and other surface facilities and systems constructed or installed for the collection, impoundment, storage, transportation, or distribution of drinking water.

(13) **RESOURCE MANAGEMENT PLAN.**—The term “resource management plan” means—

(A) a land and resource management plan prepared for 1 or more units of land of the National Forest System described in section 3(1)(A) under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604); or

(B) a land use plan prepared for 1 or more units of the public land described in section 3(1)(B) under section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(14) **SECRETARY.**—The term “Secretary” means—

(A) the Secretary of Agriculture, with respect to land of the National Forest System described in section 3(1)(A); and

(B) the Secretary of the Interior, with respect to public lands described in section 3(1)(B).

(15) **THREATENED AND ENDANGERED SPECIES HABITAT.**—The term “threatened and endangered species habitat” means Federal land identified in—

(A) a determination that a species is an endangered species or a threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) a designation of critical habitat of the species under that Act; or

(C) a recovery plan prepared for the species under that Act.

(16) **WILDLAND-URBAN INTERFACE.**—The term “wildland-urban interface” means—

(A) an area within or adjacent to an at-risk community that is identified in recommenda-

tions to the Secretary in a community wildfire protection plan; or

(B) in the case of any area for which a community wildfire protection plan is not in effect—

(i) an area extending ½-mile from the boundary of an at-risk community;

(ii) an area extending more than ½-mile from the boundary of an at-risk community, if the land adjacent to the at-risk community—

(I) has a sustained steep slope that creates the potential for wildfire behavior endangering the at-risk community; or

(II) has a geographic feature that aids in creating an effective fire break, such as a road or ridge top, within ¼-mile of the nearest at-risk community boundary; and

(iii) an area that is adjacent to an evacuation route for an at-risk community that the Secretary determines, in cooperation with the at-risk community, requires hazardous fuel reduction to provide safer evacuation from the at-risk community.

SEC. 102. AUTHORIZED HAZARDOUS FUEL REDUCTION PROJECTS.

(a) **AUTHORIZED PROJECTS.**—As soon as practicable after the date of enactment of this Act, the Secretary shall implement authorized hazardous fuel reduction projects, consistent with the Implementation Plan, on—

(1) Federal land in wildland-urban interface areas;

(2) condition class 3 Federal land, in such proximity to a municipal water supply system or a stream feeding such a system within a municipal watershed that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including a risk to water quality posed by erosion following such a fire disturbance event;

(3) condition class 2 Federal land located within fire regime I, fire regime II, or fire regime III, in such proximity to a municipal water supply system or a stream feeding such a system within a municipal watershed that a significant risk exists that a fire disturbance event would have adverse effects on the water quality of the municipal water supply or the maintenance of the system, including a risk to water quality posed by erosion following such a fire disturbance event;

(4) Federal land on which windthrow or blow-down, ice storm damage, or the existence of disease or insect infestation, poses a significant threat to an ecosystem component, or forest or rangeland resource, on the Federal land or adjacent non-Federal land;

(5) Federal land not covered by paragraphs (1) through (4) that contains threatened and endangered species habitat, if—

(A) natural fire regimes on that land are identified as being important for, or wildfire is identified as a threat to, an endangered species, a threatened species, or habitat of an endangered species or threatened species in a species recovery plan prepared under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533), or a notice published in the Federal Register determining a species to be an endangered species or a threatened species or designating critical habitat;

(B) the authorized hazardous fuel reduction project will provide enhanced protection from catastrophic wildfire for the endangered species, threatened species, or habitat of the endangered species or threatened species; and

(C) the Secretary complies with any applicable guidelines specified in any management or recovery plan described in subparagraph (A).

(b) **RELATION TO AGENCY PLANS.**—An authorized hazardous fuel reduction project shall be conducted consistent with the resource management plan and other relevant administrative policies or decisions applicable to the Federal land covered by the project.

(c) **ACREAGE LIMITATION.**—Not more than a total of 20,000,000 acres of Federal land may be treated under authorized hazardous fuel reduction projects.

(d) **EXCLUSION OF CERTAIN FEDERAL LAND.**—The Secretary may not conduct an authorized hazardous fuel reduction project that would occur on—

(1) a component of the National Wilderness Preservation System;

(2) Federal land on which the removal of vegetation is prohibited or restricted by Act of Congress or Presidential proclamation (including the applicable implementation plan); or

(3) a Wilderness Study Area.

(e) **OLD GROWTH STANDS.**—

(1) **DEFINITIONS.**—In this subsection and subsection (f):

(A) **COVERED PROJECT.**—The term “covered project” means an authorized hazardous fuel reduction project carried out under paragraph (1), (2), (3), or (5) of subsection (a).

(B) **OLD GROWTH STAND.**—The term “old growth stand” has the meaning given the term under standards used pursuant to paragraphs (3) and (4), based on the structure and composition characteristic of the forest type, and in accordance with applicable law, including section 6(g)(3)(B) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(g)(3)(B)).

(C) **STANDARDS.**—The term “standards” means definitions, designations, standards, guidelines, goals, or objectives established for an old growth stand under a resource management plan developed in accordance with applicable law, including section 6(g)(3)(B) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604(g)(3)(B)).

(2) **PROJECT REQUIREMENTS.**—In carrying out a covered project, the Secretary shall fully maintain, or contribute toward the restoration of, the structure and composition of old growth stands according to the pre-fire suppression old growth conditions characteristic of the forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health, and retaining the large trees contributing to old growth structure.

(3) **NEWER STANDARDS.**—

(A) **IN GENERAL.**—If the standards for an old growth stand were established during the 10-year period ending on the date of enactment of this Act, the Secretary shall meet the requirements of paragraph (2) in carrying out a covered project by implementing the standards.

(B) **AMENDMENTS OR REVISIONS.**—Any amendment or revision to standards for which final administrative approval is granted after the date of enactment of this Act shall be consistent with paragraph (2) for the purpose of carrying out covered projects.

(4) **OLDER STANDARDS.**—

(A) **IN GENERAL.**—If the standards for an old growth stand were established before the 10-year period described in paragraph (3)(A), the Secretary shall meet the requirements of paragraph (2) in carrying out a covered project by implementing the standards—

(i) during the 2-year period beginning on the date of enactment of this Act; or

(ii) if the Secretary is in the process of revising a resource management plan as of the date of enactment of this Act, during the 3-year period beginning on the date of enactment of this Act.

(B) **REVIEW REQUIRED.**—During the applicable period described in subparagraph (A) for the standards for an old growth stand under a resource management plan, the Secretary shall—

(i) review the standards, taking into account any relevant scientific information made available since the adoption of the standards; and

(ii) revise the standards to be consistent with paragraph (2), if necessary to reflect relevant scientific information the Secretary did not consider in formulating the resource management plan.

(C) **REVIEW NOT COMPLETED.**—

(i) **IN GENERAL.**—If the Secretary does not complete the review of the standards in accordance with subparagraph (B), during the appli-

cable period described in subparagraph (A), the Secretary shall not carry out any portion of a covered project in a stand that is identified as an old growth stand (based on substantial supporting evidence) by any person during scoping.

(ii) **PERIOD.**—Clause (i) applies during the period—

(I) beginning on the termination of the applicable period for the standards described in subparagraph (A); and

(II) ending on the earlier of—

(aa) the date the Secretary completes the action required by subparagraph (B) for the standards; or

(bb) the date on which the acreage limitation specified in subsection (c) (as that limitation may be adjusted by subsequent Act of Congress) is reached.

(f) **LARGE TREE RETENTION.**—Except in old growth stands where the standards are consistent with subsection (e)(2), the Secretary shall carry out a covered project in a manner that—

(1) focuses largely on small diameter trees, thinning, strategic fuel breaks, and prescribed fire to modify fire behavior, as measured by the projected reduction of uncharacteristically severe wildfire effects for the forest type (such as adverse soil impacts, tree mortality or other impacts); and

(2) maximizes the retention of large trees, as appropriate for the forest type, to the extent that the trees promote fire-resilient stands and the purposes of section 6(g)(3)(B) of the Forest and Rangeland Renewable Resources Planning Act of 1976 (16 U.S.C. 1604(g)(3)(B)).

(g) **MONITORING AND ASSESSING FOREST AND RANGELAND HEALTH.**—

(1) **IN GENERAL.**—For each Forest Service administrative region and each Bureau of Land Management State Office, the Secretary shall—

(A) monitor the results of the projects authorized under this section; and

(B) not later than 5 years after the date of enactment of this Act, and each 5 years thereafter, issue a report that includes—

(i) an evaluation of the progress towards project goals; and

(ii) recommendations for modifications to the projects and management treatments.

(2) **CONSISTENCY OF PROJECTS WITH RECOMMENDATIONS.**—An authorized hazardous fuel reduction project approved following the issuance of a monitoring report shall, to the maximum extent practicable, be consistent with any applicable recommendations in the report.

(3) **SIMILAR VEGETATION TYPES.**—The results of a monitoring report shall be made available in, and (if appropriate) used for, a project conducted in a similar vegetation type on land under the jurisdiction of the Secretary.

(4) **MONITORING AND ASSESSMENTS.**—From a representative sample of authorized hazardous fuel reduction projects, for each management unit, monitoring and assessment shall include a description of the effects on changes in condition class, using the Fire Regime Condition Class Guidebook or successor guidance, specifically comparing end results to—

(A) pretreatment conditions;

(B) historical fire regimes; and

(C) any applicable watershed or landscape goals or objectives in the resource management plan or other relevant direction.

(5) **TRACKING.**—For each management unit, the Secretary shall track acres burned, by the degree of severity, by large wildfires (as defined by the Secretary).

(6) **MONITORING AND MAINTENANCE OF TREATED AREAS.**—The Secretary shall, to the maximum extent practicable, develop a process for monitoring the need for maintenance of treated areas, over time, in order to preserve the forest health benefits achieved.

SEC. 103. PRIORITIZATION.

(a) **IN GENERAL.**—In accordance with the Implementation Plan, the Secretary shall develop an annual program of work for Federal land

that gives priority to authorized hazardous fuel reduction projects that provide for the protection of at-risk communities or watersheds or that implement community wildfire protection plans.

(b) **COLLABORATION.**—

(1) **IN GENERAL.**—The Secretary shall consider recommendations under subsection (a) that are made by at-risk communities that have developed community wildfire protection plans.

(2) **EXEMPTION.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the planning process and recommendations concerning community wildfire protection plans.

(c) **ADMINISTRATION.**—

(1) **IN GENERAL.**—Federal agency involvement in a community wildfire protection plan, or a recommendation made in a community wildfire protection plan, shall not be considered a Federal agency action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) **COMPLIANCE.**—In implementing authorized hazardous fuel reduction projects on Federal land, the Secretary shall, in accordance with section 104, comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) **FUNDING ALLOCATION.**—

(1) **FEDERAL LAND.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), the Secretary shall use not less than 50 percent of the funds allocated for authorized hazardous fuel reduction projects in the wildland-urban interface.

(B) **APPLICABILITY AND ALLOCATION.**—The funding allocation in subparagraph (A) shall apply at the national level, and the Secretary may allocate the proportion of funds differently than is required under subparagraph (A) within individual management units as appropriate, in particular to conduct authorized hazardous fuel reduction projects on land described in section 102(a)(4).

(2) **NON-FEDERAL LAND.**—In providing financial assistance under any provision of law for hazardous fuel reduction projects on non-Federal land, the Secretary shall consider recommendations made by at-risk communities that have developed community wildfire protection plans.

SEC. 104. ENVIRONMENTAL ANALYSIS.

(a) **AUTHORIZED HAZARDOUS FUEL REDUCTION PROJECTS.**—Except as otherwise provided in this title, the Secretary shall conduct authorized hazardous fuel reduction projects in accordance with—

(1) the National Environmental Policy Act of 1969 (42 U.S.C. 4331 et seq.); and

(2) other applicable laws.

(b) **ENVIRONMENTAL ASSESSMENT OR IMPACT STATEMENTS.**—

(1) **IN GENERAL.**—The Secretary shall prepare an environmental assessment or an environmental impact statement (pursuant to section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2))) for any authorized hazardous fuel reduction project.

(2) **ALTERNATIVES.**—In the environmental assessment or environmental impact statement prepared under paragraph (1), the Secretary shall study, develop, and describe—

(A) the proposed agency action;

(B) the alternative of no action; and

(C) an additional action alternative, if the additional alternative—

(i) is proposed during scoping or the collaborative process; and

(ii) meets the purpose and need of the project, in accordance with regulations promulgated by the Council on Environmental Quality.

(3) **MULTIPLE ADDITIONAL ALTERNATIVES.**—If more than 1 additional alternative is proposed under paragraph (2)(C), the Secretary shall—

(A) select which additional alternative to consider; and

(B) provide a written record describing the reasons for the selection.

(c) PUBLIC NOTICE AND MEETING.—

(1) PUBLIC NOTICE.—The Secretary shall provide notice of each authorized hazardous fuel reduction project in accordance with applicable regulations and administrative guidelines.

(2) PUBLIC MEETING.—During the preparation stage of each authorized hazardous fuel reduction project, the Secretary shall—

(A) conduct a public meeting at an appropriate location proximate to the administrative unit of the Federal land on which the authorized hazardous fuel reduction project will be conducted; and

(B) provide advance notice of the location, date, and time of the meeting.

(d) PUBLIC COLLABORATION.—In order to encourage meaningful public participation during preparation of authorized hazardous fuel reduction projects, the Secretary shall facilitate collaboration among State and local governments and Indian tribes, and participation of interested persons, during the preparation of each authorized fuel reduction project in a manner consistent with the Implementation Plan.

(e) ENVIRONMENTAL ANALYSIS AND PUBLIC COMMENT.—In accordance with section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) and the applicable regulations and administrative guidelines, the Secretary shall provide an opportunity for public comment during the preparation of any environmental assessment or environmental impact statement for an authorized hazardous fuel reduction project.

(f) DECISION DOCUMENT.—The Secretary shall sign a decision document for authorized hazardous fuel reduction projects and provide notice of the final agency actions.

SEC. 105. SPECIAL ADMINISTRATIVE REVIEW PROCESS.

(a) INTERIM FINAL REGULATIONS.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate interim final regulations to establish a predecisional administrative review process for the period described in paragraph (2) that will serve as the sole means by which a person can seek administrative review regarding an authorized hazardous fuel reduction project on Forest Service land.

(2) PERIOD.—The predecisional administrative review process required under paragraph (1) shall occur during the period—

(A) beginning after the completion of the environmental assessment or environmental impact statement; and

(B) ending not later than the date of the issuance of the final decision approving the project.

(3) EFFECTIVE DATE.—The interim final regulations promulgated under paragraph (1) shall take effect on the date of promulgation of the regulations.

(b) FINAL REGULATIONS.—The Secretary shall promulgate final regulations to establish the process described in subsection (a)(1) after the interim final regulations have been published and reasonable time has been provided for public comment.

(c) ADMINISTRATIVE REVIEW.—

(1) IN GENERAL.—A person may bring a civil action challenging an authorized hazardous fuel reduction project in a Federal district court only if the person has challenged the authorized hazardous fuel reduction project by exhausting—

(A) the administrative review process established by the Secretary of Agriculture under this section; or

(B) the administrative hearings and appeals procedures established by the Department of the Interior.

(2) ISSUES.—An issue may be considered in the judicial review of an action under section 106 only if the issue was raised in an administrative review process described in paragraph (1).

(3) EXCEPTION.—An exception to the requirement of exhausting the administrative review

process before seeking judicial review shall be available if a Federal court finds that the futility or inadequacy exception applies to a specific plaintiff or claim.

SEC. 106. JUDICIAL REVIEW IN UNITED STATES DISTRICT COURTS.

(a) VENUE.—Notwithstanding section 1391 of title 28, United States Code, or other applicable law, an authorized hazardous fuels reduction project conducted under this title shall be subject to judicial review only in the United States district court for the district in which the Federal land to be treated under the authorized hazardous fuels reduction project is located.

(b) EXPEDITIOUS COMPLETION OF JUDICIAL REVIEW.—In the judicial review of an action challenging an authorized hazardous fuel reduction project under subsection (a), Congress encourages a court of competent jurisdiction to expedite, to the maximum extent practicable, the proceedings in the action with the goal of rendering a final determination on jurisdiction, and (if jurisdiction exists) a final determination on the merits, as soon as practicable after the date on which a complaint or appeal is filed to initiate the action.

(c) INJUNCTIONS.—

(1) IN GENERAL.—Subject to paragraph (2), the length of any preliminary injunctive relief and stays pending appeal covering an authorized hazardous fuel reduction project carried out under this title shall not exceed 60 days.

(2) RENEWAL.—

(A) IN GENERAL.—A court of competent jurisdiction may issue 1 or more renewals of any preliminary injunction, or stay pending appeal, granted under paragraph (1).

(B) UPDATES.—In each renewal of an injunction in an action, the parties to the action shall present the court with updated information on the status of the authorized hazardous fuel reduction project.

(3) BALANCING OF SHORT- AND LONG-TERM EFFECTS.—As part of its weighing the equities while considering any request for an injunction that applies to an agency action under an authorized hazardous fuel reduction project, the court reviewing the project shall balance the impact to the ecosystem likely affected by the project of—

(A) the short- and long-term effects of undertaking the agency action; against

(B) the short- and long-term effects of not undertaking the agency action.

SEC. 107. EFFECT OF TITLE.

(a) OTHER AUTHORITY.—Nothing in this title affects, or otherwise biases, the use by the Secretary of other statutory or administrative authority (including categorical exclusions adopted to implement the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) to conduct a hazardous fuel reduction project on Federal land (including Federal land identified in section 102(d)) that is not conducted using the process authorized by section 104.

(b) NATIONAL FOREST SYSTEM.—For projects and activities of the National Forest System other than authorized hazardous fuel reduction projects, nothing in this title affects, or otherwise biases, the notice, comment, and appeal procedures for projects and activities of the National Forest System contained in part 215 of title 36, Code of Federal Regulations, or the consideration or disposition of any legal action brought with respect to the procedures.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated \$760,000,000 for each fiscal year to carry out—

(1) activities authorized by this title; and

(2) other hazardous fuel reduction activities of the Secretary, including making grants to States for activities authorized by law.

TITLE II—BIOMASS**SEC. 201. FINDINGS.**

Congress finds that—

(1)(A) thousands of communities in the United States, many located near Federal land, are at risk of wildfire;

(B) more than 100,000,000 acres of land managed by the Secretary of Agriculture and the Secretary of the Interior are at risk of catastrophic fire in the near future; and

(C) the accumulation of heavy forest and rangeland fuel loads continues to increase as a result of fire exclusion, disease, insect infestations, and drought, further raising the risk of fire each year;

(2)(A) more than 70,000,000 acres across all land ownerships are at risk of higher than normal mortality during the 15-year period beginning on the date of enactment of this Act because of insect infestation and disease; and

(B) high levels of tree mortality from insects and disease result in—

(i) increased fire risk;

(ii) loss of older trees and old growth;

(iii) degraded watershed conditions;

(iv) changes in species diversity and productivity;

(v) diminished fish and wildlife habitat;

(vi) decreased timber values; and

(vii) increased threats to homes, businesses, and community watersheds;

(3)(A) preventive treatments (such as reducing fuel loads, crown density, ladder fuels, and hazard trees), planting proper species mix, restoring and protecting early successional habitat, and completing other specific restoration treatments designed to reduce the susceptibility of forest and rangeland to insect outbreaks, disease, and catastrophic fire present the greatest opportunity for long-term forest and rangeland health, maintenance, and enhancement by creating a mosaic of species-mix and age distribution; and

(B) those vegetation management treatments are widely acknowledged to be more successful and cost-effective than suppression treatments in the case of insects, disease, and fire;

(4)(A) the byproducts of vegetative management treatment (such as trees, brush, thinnings, chips, slash, and other hazardous fuels) removed from forest and rangeland represent an abundant supply of—

(i) biomass for biomass-to-energy facilities; and

(ii) raw material for business; and

(B) there are currently few markets for the extraordinary volumes of by-products being generated as a result of the necessary large-scale preventive treatment activities; and

(5) the United States should—

(A) promote economic and entrepreneurial opportunities in using by-products removed through vegetation treatment activities relating to hazardous fuels reduction, disease, and insect infestation;

(B) develop and expand markets for traditionally underused wood and biomass as an outlet for by-products of preventive treatment activities; and

(C) promote research and development to provide, for the by-products, economically and environmentally sound—

(i) management systems;

(ii) harvest and transport systems; and

(iii) utilization options.

SEC. 202. DEFINITIONS.

In this title:

(1) BIOMASS.—The term “biomass” means trees and woody plants (including limbs, tops, needles, other woody parts, and wood waste) and byproducts of preventive treatment (such as wood, brush, thinnings, chips, and slash) that are removed—

(A) to reduce hazardous fuels;

(B) to reduce the risk of or to contain disease or insect infestation; or

(C) to improve forest health and wildlife habitat conditions.

(2) PERSON.—The term “person” includes—

(A) an individual;

(B) a community (as determined by the Secretary);

(C) an Indian tribe;

(D) a small business, microbusiness, or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(3) **PREFERRED COMMUNITY.**—The term “preferred community” means—

(A) any town, township, municipality, Indian tribe, or other similar unit of local government (as determined by the Secretary) that—

(i) has a population of not more than 50,000 individuals; and

(ii) the Secretary, in the sole discretion of the Secretary, determines contains or is located near, or with a water supply system that contains or is located near, land that—

(I) is at significant risk of catastrophic wildfire, disease, or insect infestation; or

(II) suffers from disease or insect infestation; or

(B) any area or unincorporated area represented by a nonprofit organization approved by the Secretary, that—

(i) is not wholly contained within a metropolitan statistical area; and

(ii) the Secretary, in the sole discretion of the Secretary, determines contains or is located near, or with a water supply system that contains or is located near, land—

(I) the condition of which is at significant risk of catastrophic wildfire, disease, or insect infestation; or

(II) that suffers from disease or insect infestation.

(4) **SECRETARY.**—The term “Secretary” means—

(A) the Secretary of Agriculture, with respect to National Forest System land; and

(B) the Secretary of the Interior, with respect to Federal land under the jurisdiction of the Secretary of the Interior (including land held in trust for the benefit of an Indian tribe).

SEC. 203. GRANTS TO IMPROVE COMMERCIAL VALUE OF FOREST BIOMASS FOR ELECTRIC ENERGY, USEFUL HEAT, TRANSPORTATION FUELS, COMPOST, VALUE-ADDED PRODUCTS, AND PETROLEUM-BASED PRODUCT SUBSTITUTES.

(a) **BIOMASS COMMERCIAL UTILIZATION GRANT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary may make grants to any person that owns or operates a facility that uses biomass as a raw material to produce electric energy, sensible heat, transportation fuels, substitutes for petroleum-based products, wood-based products, pulp, or other commercial products to offset the costs incurred to purchase biomass for use by the facility.

(2) **GRANT AMOUNTS.**—A grant under this subsection may not exceed \$20 per green ton of biomass delivered.

(3) **MONITORING OF GRANT RECIPIENT ACTIVITIES.**—

(A) **IN GENERAL.**—As a condition of a grant under this subsection, the grant recipient shall keep such records as the Secretary may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass.

(B) **ACCESS.**—On notice by a representative of the Secretary, the grant recipient shall afford the representative—

(i) reasonable access to the facility that purchases or uses biomass; and

(ii) an opportunity to examine the inventory and records of the facility.

(b) **VALUE-ADDED GRANT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary—

(A) may make grants to persons to offset the cost of projects to add value to biomass; and

(B) in making a grant under subparagraph (A), shall give preference to persons in preferred communities.

(2) **SELECTION.**—The Secretary shall select a grant recipient under paragraph (1)(A) after giving consideration to—

(A) the anticipated public benefits of the project;

(B) opportunities for the creation or expansion of small businesses and microbusinesses resulting from the project; and

(C) the potential for new job creation as a result of the project.

(3) **GRANT AMOUNT.**—A grant under this subsection shall not exceed \$100,000.

(c) **RELATION TO OTHER ENDANGERED SPECIES AND RIPARIAN PROTECTIONS.**—

(1) **IN GENERAL.**—The Secretary shall comply with applicable endangered species and riparian protections in making grants under this section.

(2) **PROJECTS.**—Projects funded using grant proceeds shall be required to comply with the protections.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$25,000,000 for each of fiscal years 2004 through 2008.

SEC. 204. REPORTING REQUIREMENT.

(a) **REPORT REQUIRED.**—Not later than October 1, 2008, the Secretary of Agriculture, in consultation with the Secretary of the Interior, shall submit to the Committee on Resources and the Committee on Agriculture of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the grant programs authorized by section 203.

(b) **CONTENTS OF REPORT.**—The report shall include—

(1) an identification of the source, size, type, and the end-use of biomass by persons that receive grants under section 203;

(2) the haul costs incurred and the distance between the land from which the biomass was removed and the facilities that used the biomass;

(3) the economic impacts, particularly new job creation, resulting from the grants to and operation of the eligible operations; and

(4) the environmental effects of the activities described in this section.

SEC. 205. IMPROVED BIOMASS USE RESEARCH PROGRAM.

(a) **USES OF GRANTS, CONTRACTS, AND ASSISTANCE.**—Section 307(d) of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106-224) is amended—

(1) in paragraph (3), by striking “or” at the end;

(2) in paragraph (4), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(5) research to integrate silviculture, harvesting, product development, processing information, and economic evaluation to provide the science, technology, and tools to forest managers and community developers for use in evaluating forest treatment and production alternatives, including—

“(A) to develop tools that would enable land managers, locally or in a several-State region, to estimate—

“(i) the cost to deliver varying quantities of wood to a particular location; and

“(ii) the amount that could be paid for stumpage if delivered wood was used for a specific mix of products;

“(B) to conduct research focused on developing appropriate thinning systems and equipment designs that are—

“(i) capable of being used on land without significant adverse effects on the land;

“(ii) capable of handling large and varied landscapes;

“(iii) adaptable to handling a wide variety of tree sizes;

“(iv) inexpensive; and

“(v) adaptable to various terrains; and

“(C) to develop, test, and employ in the training of forestry managers and community developers curricula materials and training programs on matters described in subparagraphs (A) and (B).”

(b) **FUNDING.**—Section 310(b) of the Biomass Research and Development Act of 2000 (7 U.S.C.

7624 note; Public Law 106-224) is amended by striking “\$49,000,000” and inserting “\$54,000,000”.

SEC. 206. RURAL REVITALIZATION THROUGH FORESTRY.

Section 2371 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6601) is amended by adding at the end the following:

“(d) **RURAL REVITALIZATION TECHNOLOGIES.**—

“(1) **IN GENERAL.**—The Secretary of Agriculture, acting through the Chief of the Forest Service, in consultation with the State and Private Forestry Technology Marketing Unit at the Forest Products Laboratory, and in collaboration with eligible institutions, may carry out a program—

“(A) to accelerate adoption of technologies using biomass and small-diameter materials;

“(B) to create community-based enterprises through marketing activities and demonstration projects; and

“(C) to establish small-scale business enterprises to make use of biomass and small-diameter materials.

“(2) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this subsection \$5,000,000 for each of fiscal years 2004 through 2008.”

TITLE III—WATERSHED FORESTRY ASSISTANCE

SEC. 301. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—Congress finds that—

(1) there has been a dramatic shift in public attitudes and perceptions about forest management, particularly in the understanding and practice of sustainable forest management;

(2) it is commonly recognized that the proper stewardship of forest land is essential to sustaining and restoring the health of watersheds;

(3) forests can provide essential ecological services in filtering pollutants, buffering important rivers and estuaries, and minimizing flooding, which makes forest restoration worthy of special focus; and

(4) strengthened education, technical assistance, and financial assistance for nonindustrial private forest landowners and communities, relating to the protection of watershed health, is needed to realize the expectations of the general public.

(b) **PURPOSES.**—The purposes of this title are—

(1) to improve landowner and public understanding of the connection between forest management and watershed health;

(2) to encourage landowners to maintain tree cover on property and to use tree plantings and vegetative treatments as creative solutions to watershed problems associated with varying land uses;

(3) to enhance and complement forest management and buffer use for watersheds, with an emphasis on community watersheds;

(4) to establish new partnerships and collaborative watershed approaches to forest management, stewardship, and conservation;

(5) to provide technical and financial assistance to States to deliver a coordinated program that enhances State forestry best-management practices programs, and conserves and improves forested land and potentially forested land, through technical, financial, and educational assistance to qualifying individuals and entities; and

(6) to maximize the proper management and conservation of wetland forests and to assist in the restoration of those forests.

SEC. 302. WATERSHED FORESTRY ASSISTANCE PROGRAM.

The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 5 (16 U.S.C. 2103a) the following:

“SEC. 6. WATERSHED FORESTRY ASSISTANCE PROGRAM.

“(a) **DEFINITION OF NONINDUSTRIAL PRIVATE FOREST LAND.**—In this section, the term ‘non-industrial private forest land’ means rural land, as determined by the Secretary, that—

“(1) has existing tree cover or that is suitable for growing trees; and

“(2) is owned by any nonindustrial private individual, group, association, corporation, or other private legal entity, that has definitive decisionmaking authority over the land.

“(b) GENERAL AUTHORITY AND PURPOSE.—The Secretary, acting through the Chief of the Forest Service, may provide technical, financial, and related assistance to State foresters, equivalent State officials, and officials of the Cooperative State Research, Education, and Extension Service for the purpose of expanding State forest stewardship capacities and activities through State forestry best-management practices and other means at the State level to address watershed issues on non-Federal forested land and potentially forested land.

“(c) TECHNICAL ASSISTANCE TO PROTECT WATER QUALITY.—

“(1) IN GENERAL.—The Secretary, in cooperation with State foresters, officials of the Cooperative State Research, Education, and Extension Service, or equivalent State officials, shall engage interested members of the public, including nonprofit organizations and local watershed councils, to develop a program of technical assistance to protect water quality described in paragraph (2).

“(2) PURPOSE OF PROGRAM.—The program under this subsection shall be designed—

“(A) to build and strengthen watershed partnerships that focus on forested landscapes at the State, regional, and local levels;

“(B) to provide State forestry best-management practices and water quality technical assistance directly to owners of nonindustrial private forest land;

“(C) to provide technical guidance to land managers and policymakers for water quality protection through forest management;

“(D) to complement State and local efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal and State agencies charged with responsibility for water and watershed management; and

“(E) to provide enhanced forest resource data and support for improved implementation and monitoring of State forestry best-management practices.

“(3) IMPLEMENTATION.—In the case of a participating State, the program of technical assistance shall be implemented by State foresters or equivalent State officials.

“(d) WATERSHED FORESTRY COST-SHARE PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish a watershed forestry cost-share program—

“(A) which shall be—

“(i) administered by the Forest Service; and

“(ii) implemented by State foresters or equivalent State officials in participating States; and

“(B) under which funds or other support provided to participating States shall be made available for State forestry best-management practices programs and watershed forestry projects.

“(2) WATERSHED FORESTRY PROJECTS.—The State forester, State Research, Education and Extension official, or equivalent State official of a participating State, in coordination with the State Forest Stewardship Coordinating Committee established under section 19(b) (or an equivalent committee) for that State, shall make awards to communities, nonprofit groups, and owners of nonindustrial private forest land under the program for watershed forestry projects described in paragraph (3).

“(3) PROJECT ELEMENTS AND OBJECTIVES.—A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within a State by demonstrating the value of trees and forests to watershed health and condition through—

“(A) the use of trees as solutions to water quality problems in urban and rural areas;

“(B) community-based planning, involvement, and action through State, local and nonprofit partnerships;

“(C) application of and dissemination of monitoring information on forestry best-management practices relating to watershed forestry;

“(D) watershed-scale forest management activities and conservation planning; and

“(E)(i) the restoration of wetland (as defined by the States) and stream-side forests; and

“(ii) the establishment of riparian vegetative buffers.

“(4) COST-SHARING.—

“(A) FEDERAL SHARE.—

“(i) FUNDS UNDER THIS SUBSECTION.—Funds provided under this subsection for a watershed forestry project may not exceed 75 percent of the cost of the project.

“(ii) OTHER FEDERAL FUNDS.—The percentage of the cost of a project described in clause (i) that is not covered by funds made available under this subsection may be paid using other Federal funding sources, except that the total Federal share of the costs of the project may not exceed 90 percent.

“(B) FORM.—The non-Federal share of the costs of a project may be provided in the form of cash, services, or other in-kind contributions.

“(5) PRIORITIZATION.—The State Forest Stewardship Coordinating Committee for a State, or equivalent State committee, shall prioritize watersheds in that State to target watershed forestry projects funded under this subsection.

“(6) WATERSHED FORESTER.—Financial and technical assistance shall be made available to the State Forester or equivalent State official to create a State watershed or best-management practice forester position to—

“(A) lead statewide programs; and

“(B) coordinate watershed-level projects.

“(e) DISTRIBUTION.—

“(1) IN GENERAL.—Of the funds made available for a fiscal year under subsection (g), the Secretary shall use—

“(A) at least 75 percent of the funds to carry out the cost-share program under subsection (d); and

“(B) the remainder of the funds to deliver technical assistance, education, and planning, at the local level, through the State Forester or equivalent State official.

“(2) SPECIAL CONSIDERATIONS.—Distribution of funds by the Secretary among States under paragraph (1) shall be made only after giving appropriate consideration to—

“(A) the acres of agricultural land, nonindustrial private forest land, and highly erodible land in each State;

“(B) the miles of riparian buffer needed;

“(C) the miles of impaired stream segments and other impaired water bodies where forestry practices can be used to restore or protect water resources;

“(D) the number of owners of nonindustrial private forest land in each State; and

“(E) water quality cost savings that can be achieved through forest watershed management.

“(f) WILLING OWNERS.—

“(1) IN GENERAL.—Participation of an owner of nonindustrial private forest land in the watershed forestry assistance program under this section is voluntary.

“(2) WRITTEN CONSENT.—The watershed forestry assistance program shall not be carried out on nonindustrial private forest land without the written consent of the owner of, or entity having definitive decisionmaking over, the nonindustrial private forest land.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$15,000,000 for each of fiscal years 2004 through 2008.”

SEC. 303. TRIBAL WATERSHED FORESTRY ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the “Secretary”), acting through the Chief of the Forest Service, shall provide technical, financial, and related assistance to Indian tribes for the purpose of expanding tribal stewardship capacities and activities through tribal forestry best-management

practices and other means at the tribal level to address watershed issues on land under the jurisdiction of or administered by the Indian tribes.

(b) TECHNICAL ASSISTANCE TO PROTECT WATER QUALITY.—

(1) IN GENERAL.—The Secretary, in cooperation with Indian tribes, shall develop a program to provide technical assistance to protect water quality, as described in paragraph (2).

(2) PURPOSE OF PROGRAM.—The program under this subsection shall be designed—

(A) to build and strengthen watershed partnerships that focus on forested landscapes at the State, regional, tribal, and local levels;

(B) to provide tribal forestry best-management practices and water quality technical assistance directly to Indian tribes;

(C) to provide technical guidance to tribal land managers and policy makers for water quality protection through forest management;

(D) to complement tribal efforts to protect water quality and provide enhanced opportunities for consultation and cooperation among Federal agencies and tribal entities charged with responsibility for water and watershed management; and

(E) to provide enhanced forest resource data and support for improved implementation and monitoring of tribal forestry best-management practices.

(c) WATERSHED FORESTRY PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a watershed forestry program to be administered by Indian tribes.

(2) PROGRAMS AND PROJECTS.—Funds or other support provided under the program shall be made available for tribal forestry best-management practices programs and watershed forestry projects.

(3) ANNUAL AWARDS.—The Secretary shall annually make awards to Indian tribes to carry out this subsection.

(4) PROJECT ELEMENTS AND OBJECTIVES.—A watershed forestry project shall accomplish critical forest stewardship, watershed protection, and restoration needs within land under the jurisdiction of or administered by an Indian tribe by demonstrating the value of trees and forests to watershed health and condition through—

(A) the use of trees as solutions to water quality problems;

(B) application of and dissemination of monitoring information on forestry best-management practices relating to watershed forestry;

(C) watershed-scale forest management activities and conservation planning;

(D) the restoration of wetland and stream-side forests and the establishment of riparian vegetative buffers; and

(E) tribal-based planning, involvement, and action through State, tribal, local, and nonprofit partnerships.

(5) PRIORITIZATION.—An Indian tribe that participates in the program under this subsection shall prioritize watersheds in land under the jurisdiction of or administered by the Indian tribe to target watershed forestry projects funded under this subsection.

(6) WATERSHED FORESTER.—The Secretary may provide to Indian tribes under this section financial and technical assistance to establish a position of tribal forester to lead tribal programs and coordinate small watershed-level projects.

(d) DISTRIBUTION.—The Secretary shall devote—

(1) at least 75 percent of the funds made available for a fiscal year under subsection (e) to the program under subsection (c); and

(2) the remainder of the funds to deliver technical assistance, education, and planning on the ground to Indian tribes.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$2,500,000 for each of fiscal years 2004 through 2008.

TITLE IV—INSECT INFESTATIONS AND RELATED DISEASES

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) high levels of tree mortality resulting from insect infestation (including the interaction between insects and diseases) may result in—

- (A) increased fire risk;
- (B) loss of old trees and old growth;
- (C) loss of threatened and endangered species;
- (D) loss of species diversity;
- (E) degraded watershed conditions;
- (F) increased potential for damage from other agents of disturbance, including exotic, invasive species; and

(G) decreased timber values;

(2)(A) forest-damaging insects destroy hundreds of thousands of acres of trees each year;

(B) in the West, more than 21,000,000 acres are at high risk of forest-damaging insect infestation, and in the South, more than 57,000,000 acres are at risk across all land ownerships; and

(C) severe drought conditions in many areas of the South and West will increase the risk of forest-damaging insect infestations;

(3) the hemlock woolly adelgid is—

(A) destroying streamside forests throughout the mid-Atlantic and Appalachian regions;

(B) threatening water quality and sensitive aquatic species; and

(C) posing a potential threat to valuable commercial timber land in northern New England;

(4)(A) the emerald ash borer is a nonnative, invasive pest that has quickly become a major threat to hardwood forests because an emerald ash borer infestation is almost always fatal to affected trees; and

(B) the emerald ash borer pest threatens to destroy more than 692,000,000 ash trees in forests in Michigan and Ohio alone, and between 5 and 10 percent of urban street trees in the Upper Midwest;

(5)(A) epidemic populations of Southern pine beetles are ravaging forests in Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia; and

(B) in 2001, Florida and Kentucky experienced 146 percent and 111 percent increases, respectively, in Southern pine beetle populations;

(6) those epidemic outbreaks of Southern pine beetles have forced private landowners to harvest dead and dying trees, in rural areas and increasingly urbanized settings;

(7) according to the Forest Service, recent outbreaks of the red oak borer in Arkansas and Missouri have been unprecedented, with more than 1,000,000 acres infested at population levels never seen before;

(8) much of the damage from the red oak borer has taken place in national forests, and the Federal response has been inadequate to protect forest ecosystems and other ecological and economic resources;

(9)(A) previous silvicultural assessments, while useful and informative, have been limited in scale and scope of application; and

(B) there have not been sufficient resources available to adequately test a full array of individual and combined applied silvicultural assessments;

(10) only through the full funding, development, and assessment of potential applied silvicultural assessments over specific time frames across an array of environmental and climatic conditions can the most innovative and cost effective management applications be determined that will help reduce the susceptibility of forest ecosystems to attack by forest pests;

(11)(A) often, there are significant interactions between insects and diseases;

(B) many diseases (such as white pine blister rust, beech bark disease, and many other diseases) can weaken trees and forest stands and predispose trees and forest stands to insect attack; and

(C) certain diseases are spread using insects as vectors (including Dutch elm disease and pine pitch canker); and

(12) funding and implementation of an initiative to combat forest pest infestations and associated diseases should not come at the expense

of supporting other programs and initiatives of the Secretary.

(b) PURPOSES.—The purposes of this title are—

(1) to require the Secretary to develop an accelerated basic and applied assessment program to combat infestations by forest-damaging insects and associated diseases;

(2) to enlist the assistance of colleges and universities (including forestry schools, land grant colleges and universities, and 1890 Institutions), State agencies, and private landowners to carry out the program; and

(3) to carry out applied silvicultural assessments.

SEC. 402. DEFINITIONS.

In this title:

(1) APPLIED SILVICULTURAL ASSESSMENT.—

(A) IN GENERAL.—The term “applied silvicultural assessment” means any vegetative or other treatment carried out for a purpose described in section 403.

(B) INCLUSIONS.—The term “applied silvicultural assessment” includes (but is not limited to) timber harvesting, thinning, prescribed burning, pruning, and any combination of those activities.

(2) 1890 INSTITUTION.—

(A) IN GENERAL.—The term “1890 Institution” means a college or university that is eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.).

(B) INCLUSION.—The term “1890 Institution” includes Tuskegee University.

(3) FOREST-DAMAGING INSECT.—The term “forest-damaging insect” means—

- (A) a Southern pine beetle;
- (B) a mountain pine beetle;
- (C) a spruce bark beetle;
- (D) a gypsy moth;
- (E) a hemlock woolly adelgid;
- (F) an emerald ash borer;
- (G) a red oak borer;
- (H) a white oak borer; and
- (I) such other insects as may be identified by the Secretary.

(4) SECRETARY.—The term “Secretary” means—

(A) the Secretary of Agriculture, acting through the Forest Service, with respect to National Forest System land; and

(B) the Secretary of the Interior, acting through appropriate offices of the United States Geological Survey, with respect to federally owned land administered by the Secretary of the Interior.

SEC. 403. ACCELERATED INFORMATION GATHERING REGARDING FOREST-DAMAGING INSECTS.

(a) INFORMATION GATHERING.—The Secretary, acting through the Forest Service and United States Geological Survey, as appropriate, shall establish an accelerated program—

(1) to plan, conduct, and promote comprehensive and systematic information gathering on forest-damaging insects and associated diseases, including an evaluation of—

(A) infestation, prevention, and suppression methods;

(B) effects of infestations and associated disease interactions on forest ecosystems;

(C) restoration of forest ecosystem efforts;

(D) utilization options regarding infested trees; and

(E) models to predict the occurrence, distribution, and impact of outbreaks of forest-damaging insects and associated diseases;

(2) to assist land managers in the development of treatments and strategies to improve forest health and reduce the susceptibility of forest ecosystems to severe infestations of forest-damaging insects and associated diseases on Federal land and State and private land; and

(3) to disseminate the results of the information gathering, treatments, and strategies.

(b) COOPERATION AND ASSISTANCE.—The Secretary shall—

(1) establish and carry out the program in cooperation with—

(A) scientists from colleges and universities (including forestry schools, land grant colleges and universities, and 1890 Institutions);

(B) Federal, State, and local agencies; and

(C) private and industrial landowners; and

(2) designate such colleges and universities to assist in carrying out the program.

SEC. 404. APPLIED SILVICULTURAL ASSESSMENTS.

(a) ASSESSMENT EFFORTS.—For information gathering and research purposes, the Secretary may conduct applied silvicultural assessments on Federal land that the Secretary determines is at risk of infestation by, or is infested with, forest-damaging insects.

(b) LIMITATIONS.—

(1) EXCLUSION OF CERTAIN AREAS.—Subsection (a) does not apply to—

(A) a component of the National Wilderness Preservation System;

(B) any Federal land on which, by Act of Congress or Presidential proclamation, the removal of vegetation is restricted or prohibited;

(C) a congressionally-designated wilderness study area; or

(D) an area in which activities under subsection (a) would be inconsistent with the applicable land and resource management plan.

(2) CERTAIN TREATMENT PROHIBITED.—Nothing in subsection (a) authorizes the application of insecticides in municipal watersheds or associated riparian areas.

(3) PEER REVIEW.—

(A) IN GENERAL.—Before being carried out, each applied silvicultural assessment under this title shall be peer reviewed by scientific experts selected by the Secretary, which shall include non-Federal experts.

(B) EXISTING PEER REVIEW PROCESSES.—The Secretary may use existing peer review processes to the extent the processes comply with subparagraph (A).

(c) PUBLIC NOTICE AND COMMENT.—

(1) PUBLIC NOTICE.—The Secretary shall provide notice of each applied silvicultural assessment proposed to be carried out under this section.

(2) PUBLIC COMMENT.—The Secretary shall provide an opportunity for public comment before carrying out an applied silviculture assessment under this section.

(d) CATEGORICAL EXCLUSION.—

(1) IN GENERAL.—Applied silvicultural assessment and research treatments carried out under this section on not more than 1,000 acres for an assessment or treatment may be categorically excluded from documentation in an environmental impact statement and environmental assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) ADMINISTRATION.—Applied silvicultural assessments and research treatments categorically excluded under paragraph (1)—

(A) shall not be carried out in an area that is adjacent to another area that is categorically excluded under paragraph (1) that is being treated with similar methods; and

(B) shall be subject to the extraordinary circumstances procedures established by the Secretary pursuant to section 1508.4 of title 40, Code of Federal Regulations.

(3) MAXIMUM CATEGORICAL EXCLUSION.—The total number of acres categorically excluded under paragraph (1) shall not exceed 250,000 acres.

(4) NO ADDITIONAL FINDINGS REQUIRED.—In accordance with paragraph (1), the Secretary shall not be required to make any findings as to whether an applied silvicultural assessment project, either individually or cumulatively, has a significant effect on the environment.

SEC. 405. RELATION TO OTHER LAWS.

The authority provided to each Secretary under this title is supplemental to, and not in lieu of, any authority provided to the Secretaries under any other law.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title for each of fiscal years 2004 through 2008.

TITLE V—HEALTHY FORESTS RESERVE PROGRAM**SEC. 501. ESTABLISHMENT OF HEALTHY FORESTS RESERVE PROGRAM.**

(a) **ESTABLISHMENT.**—The Secretary of Agriculture shall establish the healthy forests reserve program for the purpose of restoring and enhancing forest ecosystems—

(1) to promote the recovery of threatened and endangered species;

(2) to improve biodiversity; and

(3) to enhance carbon sequestration.

(b) **COORDINATION.**—The Secretary of Agriculture shall carry out the healthy forests reserve program in coordination with the Secretary of the Interior and the Secretary of Commerce.

SEC. 502. ELIGIBILITY AND ENROLLMENT OF LANDS IN PROGRAM.

(a) **IN GENERAL.**—The Secretary of Agriculture, in coordination with the Secretary of the Interior and the Secretary of Commerce, shall describe and define forest ecosystems that are eligible for enrollment in the healthy forests reserve program.

(b) **ELIGIBILITY.**—To be eligible for enrollment in the healthy forests reserve program, land shall be—

(1) private land the enrollment of which will restore, enhance, or otherwise measurably increase the likelihood of recovery of a species listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

(2) private land the enrollment of which will restore, enhance, or otherwise measurably improve the well-being of species that—

(A) are not listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); but

(B) are candidates for such listing, State-listed species, or special concern species.

(c) **OTHER CONSIDERATIONS.**—In enrolling land that satisfies the criteria under subsection (b), the Secretary of Agriculture shall give additional consideration to land the enrollment of which will—

(1) improve biological diversity; and

(2) increase carbon sequestration.

(d) **ENROLLMENT BY WILLING OWNERS.**—The Secretary of Agriculture shall enroll land in the healthy forests reserve program only with the consent of the owner of the land.

(e) **MAXIMUM ENROLLMENT.**—The total number of acres enrolled in the healthy forests reserve program shall not exceed 2,000,000 acres.

(f) **METHODS OF ENROLLMENT.**—

(1) **IN GENERAL.**—Land may be enrolled in the healthy forests reserve program in accordance with—

(A) a 10-year cost-share agreement;

(B) a 30-year agreement; or

(C) an agreement of not more than 99 years.

(2) **PROPORTION.**—The extent to which each enrollment method is used shall be based on the approximate proportion of owner interest expressed in that method in comparison to the other methods.

(g) **ENROLLMENT PRIORITY.**—

(1) **SPECIES.**—The Secretary of Agriculture shall give priority to the enrollment of land that provides the greatest conservation benefit to—

(A) primarily, species listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

(B) secondarily, species that—

(i) are not listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); but

(ii) are candidates for such listing, State-listed species, or special concern species.

(2) **COST-EFFECTIVENESS.**—The Secretary of Agriculture shall also consider the cost-effec-

tiveness of each agreement, and associated restoration plans, so as to maximize the environmental benefits per dollar expended.

SEC. 503. RESTORATION PLANS.

(a) **IN GENERAL.**—Land enrolled in the healthy forests reserve program shall be subject to a restoration plan, to be developed jointly by the landowner and the Secretary of Agriculture.

(b) **PRACTICES.**—The restoration plan shall require such restoration practices as are necessary to restore and enhance habitat for—

(1) species listed as endangered or threatened under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533); and

(2) animal or plant species before the species reach threatened or endangered status, such as candidate, State-listed species, and special concern species.

SEC. 504. FINANCIAL ASSISTANCE.

(a) **AGREEMENTS OF NOT MORE THAN 99 YEARS.**—In the case of land enrolled in the healthy forests reserve program using an agreement of not more than 99 years described in section 502(f)(1)(C), the Secretary of Agriculture shall pay the owner of the land an amount equal to not less than 75 percent, nor more than 100 percent, of (as determined by the Secretary)—

(1) the fair market value of the enrolled land during the period the land is subject to the agreement, less the fair market value of the land encumbered by the agreement; and

(2) the actual costs of the approved conservation practices or the average cost of approved practices carried out on the land during the period in which the land is subject to the agreement.

(b) **30-YEAR AGREEMENT.**—In the case of land enrolled in the healthy forests reserve program using a 30-year agreement, the Secretary of Agriculture shall pay the owner of the land an amount equal to not more than (as determined by the Secretary)—

(1) 75 percent of the fair market value of the land, less the fair market value of the land encumbered by the agreement; and

(2) 75 percent of the actual costs of the approved conservation practices or 75 percent of the average cost of approved practices.

(c) **10-YEAR AGREEMENT.**—In the case of land enrolled in the healthy forests reserve program using a 10-year cost-share agreement, the Secretary of Agriculture shall pay the owner of the land an amount equal to not more than (as determined by the Secretary)—

(1) 50 percent of the actual costs of the approved conservation practices; or

(2) 50 percent of the average cost of approved practices.

(d) **ACCEPTANCE OF CONTRIBUTIONS.**—The Secretary of Agriculture may accept and use contributions of non-Federal funds to make payments under this section.

SEC. 505. TECHNICAL ASSISTANCE.

(a) **IN GENERAL.**—The Secretary of Agriculture shall provide landowners with technical assistance to assist the owners in complying with the terms of plans (as included in agreements) under the healthy forests reserve program.

(b) **TECHNICAL SERVICE PROVIDERS.**—The Secretary of Agriculture may request the services of, and enter into cooperative agreements with, individuals or entities certified as technical service providers under section 1242 of the Food Security Act of 1985 (16 U.S.C. 3842), to assist the Secretary in providing technical assistance necessary to develop and implement the healthy forests reserve program.

SEC. 506. PROTECTIONS AND MEASURES

(a) **PROTECTIONS.**—In the case of a landowner that enrolls land in the program and whose conservation activities result in a net conservation benefit for listed, candidate, or other species, the Secretary of Agriculture shall make available to the landowner safe harbor or similar assurances and protection under—

(1) section 7(b)(4) of the Endangered Species Act of 1973 (16 U.S.C. 1536(b)(4)); or

(2) section 10(a)(1) of that Act (16 U.S.C. 1539(a)(1)).

(b) **MEASURES.**—If protection under subsection (a) requires the taking of measures that are in addition to the measures covered by the applicable restoration plan agreed to under section 503, the cost of the additional measures, as well as the cost of any permit, shall be considered part of the restoration plan for purposes of financial assistance under section 504.

SEC. 507. INVOLVEMENT BY OTHER AGENCIES AND ORGANIZATIONS.

In carrying out this title, the Secretary of Agriculture may consult with—

(1) nonindustrial private forest landowners;

(2) other Federal agencies;

(3) State fish and wildlife agencies;

(4) State forestry agencies;

(5) State environmental quality agencies;

(6) other State conservation agencies; and

(7) nonprofit conservation organizations.

SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) \$25,000,000 for fiscal year 2004; and

(2) such sums as are necessary for each of fiscal years 2005 through 2008.

TITLE VI—PUBLIC LAND CORPS**SEC. 601. PURPOSES.**

The purposes of this title are—

(1) to carry out, in a cost-effective and efficient manner, rehabilitation, enhancement, and beautification projects;

(2) to offer young people, ages 16 through 25, particularly those who are at-risk or economically disadvantaged, the opportunity to gain productive employment and exposure to the world of work;

(3) to give those young people the opportunity to serve their communities and their country; and

(4) to expand educational opportunities by rewarding individuals who participate in the Public Land Corps with an increased ability to pursue higher education or job training.

SEC. 602. DEFINITIONS.

In this title:

(1) **ALASKA NATIVE CORPORATION.**—The term “Alaska Native Corporation” means a Regional Corporation or Village Corporation, as defined in section 101(11) of the National and Community Service Act of 1990 (42 U.S.C. 12511(11)).

(2) **CORPS.**—The term “Corps” means the Public Land Corps established under section 603(a).

(3) **HAWAIIAN HOME LANDS.**—The term “Hawaiian home lands” means that term, within the meaning of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

(4) **INDIAN LANDS.**—The term “Indian lands” has the meaning given the term in section 101 of the National and Community Service Act of 1990 (42 U.S.C. 12511).

(5) **SECRETARIES.**—The term “Secretaries” means—

(A) the Secretary of Agriculture; and

(B) the Secretary of the Interior.

(6) **SERVICE AND CONSERVATION CORPS.**—The term “service and conservation corps” means any organization established by a State or local government, nonprofit organization, or Indian tribe that—

(A) has a demonstrable capability to provide productive work to individuals;

(B) gives participants a combination of work experience, basic and life skills, education, training, and support services; and

(C) provides participants with the opportunity to develop citizenship values through service to their communities and the United States.

(7) **STATE.**—The term “State” means—

(A) a State;

(B) the District of Columbia;

(C) the Commonwealth of Puerto Rico;

(D) Guam;

(E) American Samoa;

(F) the Commonwealth of the Northern Mariana Islands;

- (G) the Federated States of Micronesia;
- (H) the Republic of the Marshall Islands;
- (I) the Republic of Palau; and
- (J) the United States Virgin Islands.

SEC. 603. PUBLIC LAND CORPS.

(a) **ESTABLISHMENT.**—There is established a Public Land Corps.

(b) **PARTICIPANTS.**—The Corps shall consist of individuals who are enrolled as members of a service or conservation corps.

(c) **CONTRACTS OR AGREEMENTS.**—The Secretaries may enter into contracts or cooperative agreements—

(1) directly with any service and conservation corps to perform appropriate rehabilitation, enhancement, or beautification projects; or

(2) with a department of natural resources, agriculture, or forestry (or an equivalent department) of any State that has entered into a contract or cooperative agreement with a service and conservation corps to perform appropriate rehabilitation, enhancement, or beautification projects.

(d) **PROJECTS.**—

(1) **IN GENERAL.**—The Secretaries may use the members of a service and conservation corps to perform rehabilitation, enhancement, or beautification projects authorized by law.

(2) **INCLUDED LAND.**—In addition to Federal and State lands, the projects may be carried out on—

(A) Indian lands, with the approval of the applicable Indian tribe;

(B) Hawaiian home lands, with the approval of the relevant State agency in the State of Hawaii; and

(C) Alaska native lands, with the approval of the applicable Alaska Native Corporation.

(e) **PREFERENCE.**—In carrying out this title, the Secretaries shall give preference to projects that will—

(1) provide long-term benefits by reducing hazardous fuels on Federal land;

(2) instill in members of the service and conservation corps—

(A) a work ethic;

(B) a sense of personal responsibility; and

(C) a sense of public service;

(3) be labor intensive; and

(4) be planned and initiated promptly.

(f) **SUPPORTIVE SERVICES.**—The Secretaries may provide such services as the Secretaries consider necessary to carry out this title.

(g) **TECHNICAL ASSISTANCE.**—To carry out this title, the Secretaries shall provide technical assistance, oversight, monitoring, and evaluation to—

(1) State Departments of Natural Resources and Agriculture (or equivalent agencies); and

(2) members of service and conservation corps.

SEC. 604. NONDISPLACEMENT.

The nondisplacement requirements of section 177(b) of the National and Community Service Act of 1990 (42 U.S.C. 12637(b)) shall apply to activities carried out by the Corps under this title.

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title \$15,000,000 for each of fiscal years 2004 through 2008.

TITLE VII—RURAL COMMUNITY FORESTRY ENTERPRISE PROGRAM

SEC. 701. PURPOSE

The purpose of this title is to assist in the economic revitalization of rural forest resource-dependent communities through incentives and collaboration to promote investment in private enterprise and community development by—

(1) the Department of Agriculture;

(2) the Department of the Interior;

(3) the Department of Commerce;

(4) the Small Business Administration;

(5) land grant colleges and universities; and

(6) 1890 Institutions.

SEC. 702. DEFINITIONS.

In this title:

(1) **1890 INSTITUTION.**—The term “1890 Institution” has the meaning given the term in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601).

(2) **ELIGIBLE ENTITY.**—The term “eligible entity” means—

(A) a unit of State or local government;

(B) an Indian tribe;

(C) a nonprofit organization;

(D) a small forest products business;

(E) a rural forest resource-dependent community;

(F) a land grant college or university; or

(G) an 1890 institution.

(3) **ELIGIBLE PROJECT.**—The term “eligible project” means a project described in section 703 that will promote the economic development in rural forest resource-dependent communities based on—

(A) responsible forest stewardship;

(B) the production of sustainable forest products; or

(C) the development of forest related tourism and recreation activities.

(4) **FOREST PRODUCTS.**—The term “forest products” means—

(A) logs;

(B) lumber;

(C) chips;

(D) small-diameter finished wood products;

(E) energy biomass;

(F) mulch; and

(G) any other material derived from forest vegetation or individual trees or shrubs.

(5) **NONPROFIT ORGANIZATION.**—The term “nonprofit organization” means an organization that is—

(A) described in section 501(c) of the Internal Revenue Code of 1986; and

(B) exempt from taxation under 501(a) of that Code.

(6) **PROGRAM.**—The term “program” means the rural community forestry enterprise program established under section 703.

(7) **SMALL FOREST PRODUCTS BUSINESS.**—The term “small forest products business” means a small business concern (as defined under section 3 of the Small Business Act (15 U.S.C. 632)) that is classified under subsector 113 or code number 115310 of the North American Industrial Classification System.

(8) **RURAL FOREST RESOURCE-DEPENDENT COMMUNITY.**—

(A) **IN GENERAL.**—The term “rural forest resource-dependent community” means a community located in a rural area of the United States that is traditionally dependent on forestry products as a primary source of community infrastructure.

(B) **INCLUSIONS.**—The term “rural forest resource-dependent community” includes a community described in subparagraph (A) located in—

(i) the northern forest land of Maine;

(ii) New Hampshire;

(iii) New York;

(iv) Vermont;

(v) the Upper Peninsula of Michigan;

(vi) northern California; and

(vii) eastern Oregon.

(9) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture, acting through the Chief of the Forest Service.

SEC. 703. RURAL COMMUNITY FORESTRY ENTERPRISE PROGRAM.

(a) **IN GENERAL.**—

(1) **ESTABLISHMENT.**—The Secretary shall establish within the Forest Service a program to be known as the “Rural Community Forestry Enterprise Program”.

(2) **CONSULTATION.**—In carrying out the program, the Secretary shall consult with—

(A) the Small Business Administration;

(B) the Economic Development Administration;

(C) land grant colleges and universities;

(D) 1890 institutions;

(E) research stations and laboratories of the Forest Service;

(F) other agencies of the Department of Agriculture that administer rural development programs; and

(G) private nonprofit organizations.

(b) **PURPOSES.**—The purposes of the program are—

(1) to enhance technical and business management skills training;

(2) to organize cooperatives and marketing programs;

(3) to establish and maintain timber worker skill pools;

(4) to establish and maintain forest product distribution networks and collection centers;

(5) to facilitate technology transfer for processing small diameter trees and brush into useful products;

(6) to develop, where support exists, a program to promote science-based technology implementation and technology transfer that expands the capacity for small forest product businesses to work within market areas;

(7) to promote forest-related tourism and recreational activities;

(8) to enhance the rural forest business infrastructure needed to reduce hazardous fuels on public and private land; and

(9) to carry out related programs and activities, as determined by the Secretary.

(c) **FOREST ENTERPRISE CENTERS.**—

(1) **IN GENERAL.**—The Secretary shall establish Forest Enterprise Centers to provide services to rural forest-dependent communities.

(2) **LOCATION.**—A Center shall be located within close proximity of rural forest-dependent communities served by the Center, with at least 1 center located in each of the States of California, Idaho, Oregon, Montana, New Mexico, Vermont, and Washington.

(3) **DUTIES.**—A Center shall—

(A) carry out eligible projects; and

(B) coordinate assistance provided to small forest products businesses with—

(i) the Small Business Administration, including the timber set-aside program carried out by the Small Business Administration;

(ii) the Rural Utilities Service, the Rural Housing Service, and the Rural Business-Cooperative Service of the Department of Agriculture;

(iii) the Economic Development Administration, including the local technical assistance program of the Economic Development Administration; and

(iv) research stations and laboratories of the Forest Service.

(d) **FOREST ENTERPRISE TECHNICAL ASSISTANCE AND GRANT PROGRAM.**—

(1) **IN GENERAL.**—The Secretary, acting through the Forest Enterprise Centers established under subsection (c), shall establish a program to provide technical assistance and grants to eligible entities to carry out eligible projects.

(2) **CRITERIA.**—The Secretary shall work with each Forest Enterprise Center to develop appropriate program review and prioritization criteria for each Research Station.

(3) **MATCHING FUNDS.**—Grants under this section shall—

(A) not exceed 50 percent of the cost of an eligible project; and

(B) be made on the condition that non-Federal sources pay for the remainder of the cost of an eligible project (including payment through in-kind contributions of services or materials).

(4) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this subsection \$15,000,000 for each of fiscal years 2004 through 2008.

TITLE VIII—FIREFIGHTERS MEDICAL MONITORING ACT

SEC. 801. SHORT TITLE.

This title shall be referred to as the “Firefighters Medical Monitoring Act of 2003”.

SEC. 802. MONITORING OF FIREFIGHTERS IN DISASTER AREAS.

(a) **IN GENERAL.**—The National Institute for Occupational Safety and Health shall monitor

the long-term medical health of those firefighters who fought fires in any area declared a disaster area by the Federal Government.

(b) **HEALTH MONITORING.**—The long-term health monitoring referred to in subsection (a) shall include, but not be limited to, pulmonary illness, neurological damage, and cardiovascular damage, and shall utilize the medical expertise in the local areas affected.

(c) **AUTHORIZATION.**—To carry out this title, there are authorized to be appropriated such sums as may be necessary in each of fiscal years 2004 through 2008.

TITLE IX—DISASTER AIR QUALITY MONITORING ACT

SEC. 901. SHORT TITLE.

This title shall be referred to as the "Disaster Air Quality Monitoring Act of 2003".

SEC. 902. MONITORING OF AIR QUALITY IN DISASTER AREAS.

(a) **IN GENERAL.**—No later than six (6) months after the enactment of this legislation, the Environmental Protection Agency shall provide each of its regional offices a mobile air pollution monitoring network to monitor the emissions of hazardous air pollutants in areas declared a disaster as referred to in subsection (b), and publish such information on a daily basis on its web site and in other forums, until such time as the Environmental Protection Agency has determined that the danger has subsided.

(b) **DISASTER AREAS.**—The areas referred to in subsection (a) are those areas declared a disaster area by the Federal Government.

(c) **CONTINUOUS MONITORING.**—The monitoring referred to in subsection (a) shall include the continuous and spontaneous monitoring of hazardous air pollutants, as defined in Public Law 95-95, section 112(b).

(d) **AUTHORIZATION.**—To carry out this title, there are authorized to be appropriated \$8,000,000.

TITLE X—HIGHLANDS REGION CONSERVATION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Highlands Conservation Act".

SEC. 1002. FINDINGS.

Congress finds the following:

(1) The Highlands region is a physiographic province that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

(2) The Highlands region is an environmentally unique area that—

(A) provides clean drinking water to over 15,000,000 people in metropolitan areas in the States of Connecticut, New Jersey, New York, and Pennsylvania;

(B) provides critical wildlife habitat, including habitat for 247 threatened and endangered species;

(C) maintains an important historic connection to early Native American culture, colonial settlement, the American Revolution, and the Civil War;

(D) contains recreational resources for 14 million visitors annually;

(E) provides other significant ecological, natural, tourism, recreational, educational, and economic benefits; and

(F) provides homeownership opportunities and access to affordable housing that is safe, clean, and healthy;

(3) An estimated 1 in 12 citizens of the United States live within a 2-hour drive of the Highlands region.

(4) More than 1,400,000 residents live in the Highlands region.

(5) The Highlands region forms a greenbelt adjacent to the Philadelphia-New York City-Hartford urban corridor that offers the opportunity to preserve water, forest and agricultural resources, wildlife habitat, recreational areas, and historic sites, while encouraging sustain-

able economic growth and development in a fiscally and environmentally sound manner.

(6) Continued population growth and land use patterns in the Highlands region—

(A) reduce the availability and quality of water;

(B) reduce air quality;

(C) fragment the forests;

(D) destroy critical migration corridors and forest habitat; and

(E) result in the loss of recreational opportunities and scenic, historic, and cultural resources;

(7) The water, forest, wildlife, recreational, agricultural, and cultural resources of the Highlands region, in combination with the proximity of the Highlands region to the largest metropolitan areas in the United States, make the Highlands region nationally significant.

(8) The national significance of the Highlands region has been documented in—

(A) the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990;

(B) the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service;

(C) the bi-State Skylands Greenway Task Force Report;

(D) the New Jersey State Development and Re-development Plan;

(E) the New York State Open Space Conservation Plan;

(F) the Connecticut Green Plan: Open Space Acquisition FY 2001-2006;

(G) the open space plans of the State of Pennsylvania; and

(H) other open space conservation plans for States in the Highlands region;

(9) The Highlands region includes or is adjacent to numerous parcels of land owned by the Federal Government or federally designated areas that protect, conserve, or restore resources of the Highlands region, including—

(A) the Wallkill River National Wildlife Refuge;

(B) the Shawanagunk Grasslands Wildlife Refuge;

(C) the Morristown National Historical Park;

(D) the Delaware and Lehigh Canal Corridors;

(E) the Hudson River Valley National Heritage Area;

(F) the Delaware River Basin;

(G) the Delaware Water Gap National Recreation Area;

(H) the Upper Delaware Scenic and Recreational River;

(I) the Appalachian National Scenic Trail;

(J) the United States Military Academy at West Point, New York;

(K) the Highlands National Millenium Trail;

(L) the Great Swamp National Wildlife Refuge;

(M) the proposed Crossroads of the Revolution National Heritage Area;

(N) the proposed Musconetcong National Scenic and Recreational River in New Jersey; and

(O) the Farmington River Wild and Scenic Area in Connecticut;

(10) It is in the interest of the United States to protect, conserve, and restore the resources of the Highlands region for the residents of, and visitors to, the Highlands region.

(11) The States of Connecticut, New Jersey, New York, and Pennsylvania, and units of local government in the Highlands region have the primary responsibility for protecting, conserving, preserving, restoring and promoting the resources of the Highlands region.

(12) Because of the longstanding Federal practice of assisting States in creating, protecting, conserving, and restoring areas of significant natural and cultural importance, and the national significance of the Highlands region, the Federal Government should, in partnership with the Highlands States and units of local government in the Highlands region, pro-

tect, restore, and preserve the water, forest, agricultural, wildlife, recreational and cultural resources of the Highlands region.

SEC. 1003. PURPOSES.

The purposes of this title are as follows:

(1) To recognize the importance of the water, forest, agricultural, wildlife, recreational and cultural resources of the Highlands, and the national significance of the Highlands region to the United States.

(2) To authorize the Secretary of Interior to work in partnership with the Secretary of Agriculture to provide financial assistance to the Highlands States to preserve and protect high priority conservation lands in the Highlands region.

(3) To continue the ongoing Forest Service programs in the Highlands region to assist the Highlands States, local units of government and private forest and farm landowners in the conservation of lands and natural resources in the Highlands region.

SEC. 1004. DEFINITIONS.

In this title:

(1) **HIGHLANDS REGION.**—The term "Highlands region" means the physiographic province, defined by the Reading Prong and ecologically similar adjacent upland areas, that encompasses more than 2,000,000 acres extending from eastern Pennsylvania through the States of New Jersey and New York to northwestern Connecticut.

(2) **HIGHLANDS STATE.**—The term "Highlands State" means—

(A) the State of Connecticut;

(B) the State of New Jersey;

(C) the State of New York;

(D) the State of Pennsylvania; and

(E) any agency or department of any Highlands State.

(3) **LAND CONSERVATION PARTNERSHIP PROJECT.**—The term "land conservation partnership project" means a land conservation project located within the Highlands region identified as having high conservation value by the Forest Service in which a non-Federal entity acquires land or an interest in land from a willing seller for the purpose of permanently protecting, conserving, or preserving the land through a partnership with the Federal Government.

(4) **NON-FEDERAL ENTITY.**—The term "non-Federal entity" means any Highlands State, or any agency or department of any Highlands State with authority to own and manage land for conservation purpose, including the Palisades Interstate Park Commission.

(5) **STUDY.**—The term "study" means the New York-New Jersey Highlands Regional Study conducted by the Forest Service in 1990.

(6) **UPDATE.**—The term "update" means the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service.

(7) **UPDATE.**—The term "update" means the New York-New Jersey Highlands Regional Study: 2002 Update conducted by the Forest Service.

SEC. 1005. LAND CONSERVATION PARTNERSHIP PROJECTS IN THE HIGHLANDS REGION.

(a) **SUBMISSION OF PROPOSED PROJECTS.**—Annually, the Governors of the Highlands States, with input from pertinent units of local government and the public, may jointly identify land conservation partnership projects in the Highlands region that shall be proposed for Federal financial assistance and submit a list of those projects to the Secretary of the Interior.

(b) **CONSIDERATION OF PROJECTS.**—The Secretary of the Interior, in consultation with the Secretary of Agriculture, shall annually submit to Congress a list of those land conservation partnership projects submitted under subsection (a) that are eligible to receive financial assistance under this section.

(c) **ELIGIBILITY CONDITIONS.**—To be eligible for financial assistance under this section for a land conservation partnership project, a non-Federal entity shall enter into an agreement with the Secretary of the Interior that—

(1) identifies the non-Federal entity that shall own or hold and manage the land or interest in land;

(2) identifies the source of funds to provide the non-Federal share required under subsection (d);

(3) describes the management objectives for the land that will assure permanent protection and use of the land for the purpose for which the assistance will be provided;

(4) provides that, if the non-Federal entity converts, uses, or disposes of the land conservation partnership project for a purpose inconsistent with the purpose for which the assistance was provided, as determined by the Secretary of the Interior, the United States may seek specific performance of the conditions of financial assistance in accordance with paragraph (3) in Federal court and shall be entitled to reimbursement from the non-Federal entity in an amount that is, as determined at the time of conversion, use, or disposal, the greater of—

(A) the total amount of the financial assistance provided for the project by the Federal Government under this section; or

(B) the amount by which the financial assistance increased the value of the land or interest in land; and

(5) provides that land conservation partnership projects will be consistent with areas identified as having high conservation value in the following:

(A) Important Areas portion of the Forest Service study.

(B) Conservation Focal Areas portion of the Forest Service update.

(C) Conservation Priorities portion of the update.

(D) Lands identified as having higher or highest resource value in the Conservation Values Assessment portion of the update.

(d) NON-FEDERAL SHARE REQUIREMENT.—The Federal share of the cost of carrying out a land conservation partnership project under this section shall not exceed 50 percent of the total cost of the land conservation partnership project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior from the general funds of the Treasury or the Land and Water Conservation Fund to carry out this section \$10,000,000 for each of the fiscal years 2005 through 2014. Amounts appropriated pursuant to this authorization of appropriations shall remain available until expended.

SEC. 1006. FOREST SERVICE AND USDA PROGRAMS IN THE HIGHLANDS REGION.

(a) IN GENERAL.—In order to meet the land resource goals of, and the scientific and conservation challenges identified in, the study, update, and any future study that the Forest Service may undertake in the Highlands region, the Secretary of Agriculture, acting through the Chief of the Forest Service and in consultation with the Chief of the Natural Resource Conservation Service, shall continue to assist the Highlands States, local units of government, and private forest and farm landowners in the conservation of lands and natural resources in the Highlands region.

(b) DUTIES.—The Forest Service shall—

(1) in consultation with the Highlands States, undertake other studies and research as appropriate in the Highlands region consistent with the purposes of this title;

(2) communicate the findings of the study and update and maintain a public dialogue regarding implementation of the study and update; and

(3) assist the Highland States, local units of government, individual landowners, and private organizations in identifying and using Forest Service and other technical and financial assistance programs of the Department of Agriculture.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture to carry out this section \$1,000,000 for each of the fiscal years 2005 through 2014.

SEC. 1007. PRIVATE PROPERTY PROTECTION AND LACK OF REGULATORY EFFECT.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

(1) require any private property owner to permit public access (including Federal, State, or local government access) to such private property; and

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) LIABILITY.—Nothing in this title shall be construed to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS.—Nothing in this title shall be construed to require the owner of any private property located in the Highlands region to participate in the land conservation, financial, or technical assistance or any other programs established under this title.

(e) PURCHASE OF LANDS OR INTERESTS IN LANDS FROM WILLING SELLERS ONLY.—Funds appropriated to carry out this title shall be used to purchase lands or interests in lands only from willing sellers.

TITLE XI—MISCELLANEOUS PROVISIONS

SEC. 1101. FOREST INVENTORY AND MANAGEMENT.

Section 17 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 note; Public Law 95313) is amended to read as follows:

“SEC. 17. FOREST INVENTORY AND MANAGEMENT.

“(a) IN GENERAL.—The Secretary shall carry out a program using geospatial and information management technologies (including remote sensing imaging and decision support systems) to inventory, monitor, characterize, assess, and identify forest stands and potential forest stands on—

“(1) units of the National Forest System; and

“(2) private forest land, with the consent of the owner of the land.

“(b) MEANS.—The Secretary shall carry out the program through the use of—

“(1) remote sensing technology of the National Aeronautics and Space Administration and the United States Geological Survey;

“(2) emerging geospatial capabilities in research activities;

“(3) validating techniques, including coordination and reconciliation with existing data through field verification, using application demonstrations; and

“(4) integration of results into pilot operational systems.

“(c) ISSUES TO BE ADDRESSED.—In carrying out the program, the Secretary shall address issues including—

“(1) early detection, identification, and assessment of environmental threats (including insect, disease, invasive species, fire, acid deposition, and weather-related risks and other episodic events);

“(2) loss or degradation of forests;

“(3) degradation of the quality forest stands caused by inadequate forest regeneration practices;

“(4) quantification of carbon uptake rates;

“(5) management practices that focus on preventing further forest degradation; and

“(6) characterization of vegetation types, density, fire regimes, post-fire effects, and condition class.

“(d) EARLY WARNING SYSTEM.—In carrying out the program, the Secretary shall develop a comprehensive early warning system for potential catastrophic environmental threats to forests to increase the likelihood that forest managers will be able to—

“(1) isolate and treat a threat before the threat gets out of control; and

“(2) prevent epidemics, such as the American chestnut blight in the first half of the twentieth century, that could be environmentally and economically devastating to forests.

“(e) ADMINISTRATION.—To carry out this section, the Secretary shall—

“(1) designate a facility within Forest Service Region 8 that—

“(A) is best-suited to take advantage of existing resources to coordinate and carry out the program through the means described in subsection (b); and

“(B) will address the issues described in subsection (c), with a particular emphasis on hardwood forest stands in the Eastern United States; and

“(2) designate a facility in the Ochoco National Forest headquarters within Forest Service Region 6 that will address the issues described in subsection (c), with a particular emphasis on coniferous forest stands in the Western United States.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.”

SEC. 1102. PROGRAM FOR EMERGENCY TREATMENT AND REDUCTION OF NON-NATIVE INVASIVE PLANTS.

(a) DEFINITIONS.—In this section:

(1) INTERFACE COMMUNITY.—The term “interface community” has the meaning given the term in the notice published at 66 Fed. Reg. 751 (January 4, 2001) (including any subsequent revision to the notice).

(2) INTERMIX COMMUNITY.—The term “intermix community” has the meaning given the term in the notice published at 66 Fed. Reg. 751 (January 4, 2001) (including any subsequent revision to the notice).

(3) PLANT.—The term “plant” includes—

(A) a tree;

(B) a shrub; and

(C) a vine.

(4) PROGRAM.—The term “program” means the program for emergency treatment and reduction of nonnative invasive plants established under subsection (b)(1).

(5) SECRETARIES.—The term “Secretaries” means the Secretary of Agriculture and the Secretary of the Interior, acting jointly.

(b) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretaries shall establish a program for emergency treatment and reduction of nonnative invasive plants to provide to State and local governments and agencies, conservation districts, tribal governments, and willing private landowners grants for use in carrying out hazardous fuel reduction projects to address threats of catastrophic fires that have been determined by the Secretaries to pose a serious threat to—

(A) property;

(B) human life; or

(C) the ecological stability of an area.

(2) COORDINATION.—In carrying out the program, the Secretaries shall coordinate with such Federal agencies, State and local governments and agencies, and conservation districts as are affected by projects under the program.

(c) ELIGIBLE LAND.—A project under the program shall—

(1) be carried out only on land that is located—

(A) in an interface community or intermix community; or

(B) in such proximity to an interface community or intermix community as would pose a significant risk in the event of the spread of a fire disturbance event from the land (including a risk that would threaten human life or property in proximity to or within the interface community or intermix community), as determined by the Secretaries;

(2) remove fuel loads determined by the Secretaries, a State or local government, a tribal government, or a private landowner to pose a serious threat to—

(A) property;
 (B) human life; or
 (C) the ecological stability of an area; and
 (3) involve the removal of nonnative invasive plants.
 (d) USE OF FUNDS.—Funds made available for a project under the program shall be used only for—

(1) the removal of plants or other potential fuels that are—

(A) adjacent to or within the wildland urban interface; or

(B) adjacent to a municipal watershed, river, or water course;

(2) the removal of erosion structures that impede the removal of nonnative plants; or

(3) the replanting of native vegetation to reduce the reestablishment of nonnative invasive plants in a treatment area.

(e) REVOLVING FUND.—

(1) IN GENERAL.—In the case of a grant provided to a willing owner to carry out a project on non-Federal land under this section, the owner shall deposit into a revolving fund established by the Secretaries any proceeds derived from the sale of timber or biomass removed from the non-Federal land under the project.

(2) USE.—The Secretaries shall use amounts in the revolving fund to make additional grants under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, to remain available until expended.

SEC. 1103. USDA NATIONAL AGROFORESTRY CENTER.

(a) IN GENERAL.—Section 1243 of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 1642 note; Public Law 101-624) is amended—

(1) by striking the section heading and inserting the following:

“**SEC. 1243. USDA NATIONAL AGROFORESTRY CENTER.**”;

and

(2) in subsection (a)—

(A) by striking “SEMIARID” and inserting “USDA NATIONAL”; and

(B) by striking “Semiarid” and inserting “USDA National”.

(b) PROGRAM.—Section 1243(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 1642 note; Public Law 101-624) is amended—

(1) by inserting “local governments, community organizations, the Institute of Tropical Forestry and the Institute of Pacific Islands Forestry of the Forest Service,” after “entities,”;

(2) in paragraph (1), by striking “on semiarid lands”;

(3) in paragraph (3), by striking “from semiarid land”;

(4) by striking paragraph (4) and inserting the following:

“(4) collect information on the design, installation, and function of forested riparian and upland buffers to—

“(A) protect water quality; and

“(B) manage water flow;”;

(5) in paragraphs (6) and (7), by striking “on semiarid lands” each place it appears;

(6) by striking paragraph (8) and inserting the following:

“(8) provide international leadership in the worldwide development and exchange of agroforestry practices;”;

(7) in paragraph (9), by striking “on semiarid lands”;

(8) in paragraph (10), by striking “and” at the end;

(9) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(10) by adding at the end the following:

“(12) quantify the carbon storage potential of agroforestry practices such as—

“(A) windbreaks;

“(B) forested riparian buffers;

“(C) silvopasture timber and grazing systems; and

“(D) alley cropping; and

“(13) modify and adapt riparian forest buffer technology used on agricultural land for use by communities to manage stormwater runoff.”.

SEC. 1104. UPLAND HARDWOODS RESEARCH CENTER.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall establish an Upland Hardwood Research Center.

(b) LOCATION.—The Secretary of Agriculture shall locate the Research Center in an area that, as determined by the Secretary of Agriculture, would best use and study the upland hardwood resources of the Ozark Mountains and the South.

(c) DUTIES.—The Upland Hardwood Research Center shall, in conjunction with the Southern Forest Research Station of the Department of Agriculture—

(1) provide the scientific basis for sustainable management of southern upland hardwood forests, particularly in the Ozark Mountains and associated mountain and upland forests; and

(2) conduct research in all areas to emphasize practical application toward the use and preservation of upland hardwood forests, particularly—

(A) the effects of pests and pathogens on upland hardwoods;

(B) hardwood stand regeneration and reproductive biology;

(C) upland hardwood stand management and forest health;

(D) threatened, endangered, and sensitive aquatic and terrestrial fauna;

(E) ecological processes and hardwood ecosystem restoration; and

(F) education and outreach to nonindustrial private forest landowners and associations.

(d) RESEARCH.—In carrying out the duties under subsection (c), the Upland Hardwood Research Center shall—

(1) cooperate with the Center for Bottomland Hardwood Research of the Southern Forest Research Station of the Department of Agriculture, located in Stoneville, Mississippi; and

(2) provide comprehensive research in the Mid-South region of the United States, the Upland Forests Ecosystems Unit of the Southern Forest Research Station of the Department of Agriculture, located in Monticello, Arkansas.

(e) PARTICIPATION OF PRIVATE LANDOWNERS.—The Secretary of Agriculture shall encourage and facilitate the participation of private landowners in the program under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$2,500,000 for each fiscal year.

SEC. 1105. EMERGENCY FUEL REDUCTION GRANTS.

(a) IN GENERAL.—The Secretary of Agriculture shall establish an emergency fuel reduction grant program under which the Secretary shall provide grants to State and local agencies to carry out hazardous fuel reduction projects addressing threats of catastrophic fire that pose a serious threat to human life, as determined by the Forest Service.

(b) ELIGIBLE PROJECTS.—To be eligible to be carried out with a grant under the program, a hazardous fuel reduction project shall—

(1) be surrounded by or immediately adjacent to the boundary of a national forest;

(2) be determined to be of paramount urgency, as indicated by declarations to that effect by both local officials and the Governor of the State in which in the project is to be carried out; and

(3) remove fuel loading that poses a serious threat to human life, as determined by the Forest Service.

(c) USES OF GRANTS.—A grant under the program may be used only—

(1) to remove trees, shrubs, or other potential fuel adjacent to a primary evacuation route;

(2) to remove trees, shrubs, or other potential fuel that are adjacent to an emergency response center, emergency communication facility, or site designated as a shelter-in-place facility; or

(3) to conduct an evacuation drill or preparation.

(d) REVOLVING FUND.—

(1) IN GENERAL.—In the case of a grant under the program that is used to carry out a project on private or county land, the grant recipient shall deposit in a revolving fund maintained by the Secretary any proceeds from the sale of timber or biomass as a result of the project.

(2) USE.—The Secretary shall use amounts in the revolving fund to make other grants under this section, without further appropriation.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Agriculture to carry out this section \$50,000,000 for each fiscal year.

SEC. 1106. EASTERN NEVADA LANDSCAPE COALITION.

(a) IN GENERAL.—(1) The Secretary of Agriculture and the Secretary of the Interior are authorized to make grants to the Eastern Nevada Landscape Coalition for the study and restoration of rangeland and other lands in Nevada's Great Basin in order to help assure the reduction of hazardous fuels and for related purposes.

(2) Notwithstanding sections 6301 through 6308 of title 31, United States Code, the Director of the Bureau of Land Management shall enter into a cooperative agreement with the Eastern Nevada Landscape Coalition for the Great Basin Restoration Project, including hazardous fuels and mechanical treatments and related work.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 1107. SENSE OF CONGRESS REGARDING ENHANCED COMMUNITY FIRE PROTECTION.

It is the sense of Congress to reaffirm the importance of enhanced community fire protection program, as described in section 10A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106c) (as added by section 8003(b) of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171; 116 Stat. 473)).

SEC. 1108. COLLABORATIVE MONITORING.

(a) IN GENERAL.—The Secretaries shall establish a collaborative monitoring, evaluation, and accountability process in order to assess the positive or negative ecological and social effects of a representative sampling of projects implemented pursuant to title I and section 404 of this Act. The Secretaries shall include diverse stakeholders, including interested citizens and Indian tribes, in the monitoring and evaluation process.

(b) MEANS.—The Secretaries may collect monitoring data using cooperative agreements, grants or contracts with small or micro-businesses, cooperatives, nonprofit organizations, Youth Conservation Corps work crews or related partnerships with State, local, and other non-Federal conservation corps.

(c) FUNDS.—Funds to implement this section shall be derived from hazardous fuels operations funds.

SEC. 1109. BEST-VALUE CONTRACTING.

To conduct a project under this Act, the Secretaries may use best value contracting criteria in awarding contracts and agreements. Best-value contracting criteria includes—

(1) the ability of the contractor to meet the ecological goals of the projects;

(2) the use of equipment that will minimize or eliminate impacts on soils; and

(3) benefits to local communities such as ensuring that the byproducts are processed locally.

SEC. 1110. SUBURBAN AND COMMUNITY FORESTRY AND OPEN SPACE PROGRAM; FOREST LEGACY PROGRAM.

(a) SUBURBAN AND COMMUNITY FORESTRY AND OPEN SPACE PROGRAM.—The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended by adding at the end the following:

“SEC. 21. SUBURBAN AND COMMUNITY FORESTRY AND OPEN SPACE PROGRAM.

“(a) DEFINITIONS.—In this section:
“(1) COMMITTEE.—The term ‘Committee’ means a State Forest Stewardship Coordinating Committee established under section 19(b).

“(2) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a unit of local government or a nonprofit organization that—

“(A) the Secretary determines, in accordance with the criteria established under subsection (c)(1)(A)(ii)(II) is eligible to receive a grant under subsection (c)(2); and

“(B) the State forester, in consultation with the Committee, determines—

“(i) has the abilities necessary to acquire and manage interests in real property; and

“(ii) has the resources necessary to monitor and enforce any terms applicable to the eligible project.

“(3) ELIGIBLE PROJECT.—The term ‘eligible project’ means a fee purchase, easement, or donation of land to conserve private forest land identified for conservation under subsection (c)(1)(A)(ii)(I).

“(4) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(5) NONPROFIT ORGANIZATION.—The term ‘nonprofit organization’ means any organization that is—

“(A) described in section 501(c) of the Internal Revenue Code of 1986; and

“(B) exempt from taxation under 501(a) of the Internal Revenue Code of 1986.

“(6) PRIVATE FOREST LAND.—The term ‘private forest land’ means land that is—

“(A) capable of producing commercial forest products; and

“(B) owned by—
“(i) a private entity; or
“(ii) an Indian tribe.

“(7) PROGRAM.—The term ‘program’ means the Suburban and Community Forestry and Open Space Program established by subsection (b).

“(8) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture, acting through the Chief of the Forest Service.

“(b) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established within the Forest Service a program to be known as the ‘Suburban and Community Forestry and Open Space Program’.

“(2) PURPOSE.—The purpose of the program is to provide assistance to eligible entities to carry out eligible projects in States in which less than 25 percent of the land is owned by the United States to—

“(A) conserve private forest land and maintain working forests in areas threatened by significant suburban sprawl or by conversion to nonforest uses; and

“(B) provide communities a means by which to address significant suburban sprawl.

“(c) GRANT PROGRAM.—

“(1) IDENTIFICATION OF ELIGIBLE PRIVATE FOREST LAND.—

“(A) CRITERIA.—

“(i) NATIONAL CRITERIA.—The Secretary shall establish national eligibility criteria for the identification of private forest land that may be conserved under this section.

“(ii) STATE CRITERIA.—The State forester, in consultation with the Committee, shall, based on the criteria established under clause (i), and subject to the approval of the Secretary, establish criteria for—

“(I) the identification, subject to subparagraph (B), of private forest land in each State that may be conserved under this section; and

“(II) the identification of eligible entities.

“(B) CONDITIONS FOR ELIGIBLE PRIVATE FOREST LAND.—Private forest land identified for conservation under subparagraph (A)(ii)(I) shall be land that—

“(i) is located in a State in which less than 25 percent of the land is owned by the United States; and

“(ii) as determined by the State forester, in consultation with the Committee and subject to the approval of the Secretary—

“(I) is located in an area that is affected, or threatened to be affected, by significant suburban sprawl, taking into account housing needs in the area; and

“(II) is threatened by present or future conversion to nonforest use.

“(2) GRANTS.—

“(A) ELIGIBLE PROJECTS.—

“(i) IN GENERAL.—In carrying out this section, the Secretary shall award competitive grants to eligible entities to carry out eligible projects.

“(ii) PUBLIC ACCESS.—Eligible entities are encouraged to provide public access to land on which an eligible project is carried out.

“(B) APPLICATION; STEWARDSHIP PLAN.—An eligible entity that seeks to receive a grant under this section shall submit to the State forester—

“(i) at such time and in such form as the Secretary shall prescribe, an application for the grant (including a description of any private forest land to be conserved using funds from the grant and a description of the extent of the threat of conversion to nonforest use); and

“(ii) a stewardship plan that describes the manner in which—

“(I) any private forest land to be conserved using funds from the grant will be managed in accordance with this section;

“(II) the stewardship plan will be implemented; and

“(III) the public benefits to be achieved from implementation of the stewardship plan.

“(C) ASSESSMENT OF NEED.—With respect to an application submitted under subparagraph (B), the State forester shall—

“(i) assess the need for preserving suburban forest land and open space and containing suburban sprawl in the State, taking into account the housing needs of the area in which the eligible project is to be carried out; and

“(ii) submit to the Secretary—

“(I) the application submitted under subparagraph (B); and

“(II) the assessment of need.

“(D) APPROVAL OR DISAPPROVAL.—

“(i) IN GENERAL.—Subject to clause (ii), as soon as practicable after the date on which the Secretary receives an application under subparagraph (C)(ii) or a resubmission under clause (II)(bb)(BB), the Secretary shall—

“(I) review the application; and

“(II)(aa) award a grant to the applicant; or

“(bb)(AA) disapprove the application; and

“(BB) provide the applicant a statement that describes the reasons why the application was disapproved (including a deadline by which the applicant may resubmit the application).

“(ii) CONSIDERATIONS; PRIORITY.—In awarding grants under this section, the Secretary shall—

“(I) consider the need for the eligible project based on the assessment of need submitted under subparagraph (C) and subject to any criteria under paragraph (1); and

“(II) give priority to applicants that propose to fund eligible projects that promote—

“(aa) the preservation of suburban forest land and open space;

“(bb) the containment of suburban sprawl;

“(cc) the sustainable management of private forest land;

“(dd) community involvement in determining the objectives for eligible projects that are funded under this section; and

“(ee) community and school education programs and curricula relating to sustainable forestry.

“(3) COST SHARING.—

“(A) IN GENERAL.—The amount of a grant awarded under this section to carry out an eligible project shall not exceed 50 percent of the total cost of the eligible project.

“(B) ASSURANCES.—As a condition of receipt of a grant under this section, an eligible entity shall provide to the Secretary such assurances as the Secretary determines are sufficient to demonstrate that the share of the cost of each eligible project that is not funded by the grant awarded under this section has been secured.

“(C) FORM.—The share of the cost of carrying out any eligible project described in subparagraph (A) that is not funded by a grant awarded under this section may be provided in cash or in kind (including a donation of land).

“(d) USE OF GRANT FUNDS FOR PURCHASES OF LAND OR EASEMENTS.—

“(1) PURCHASES.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), funds made available, and grants awarded, under this section may be used to purchase private forest land or interests in private forest land (including conservation easements) only from willing sellers at fair market value.

“(B) SALES AT LESS THAN FAIR MARKET VALUE.—A sale of private forest land or an interest in private forest land at less than fair market value shall be permitted only on certification by the landowner that the sale is being entered into willingly and without coercion.

“(2) TITLE.—Title to private forest land or an interest in private forest land purchased under paragraph (1) may be held, as determined appropriate by the Secretary, by—

“(A) a State;

“(B) a unit of local government; or

“(C) a nonprofit organization.

“(3) TERMINATION OF EASEMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), all right, title, and interest of a unit of local government or nonprofit organization in and to a conservation easement shall terminate and vest in the State if the State determines that—

“(i) the unit of local government or nonprofit organization is unable or unwilling to enforce the terms of the conservation easement; or

“(ii) the conservation easement has been modified in a way that is inconsistent with the purposes of the program.

“(B) CONVEYANCE TO ANOTHER UNIT OF LOCAL GOVERNMENT OR NONPROFIT ORGANIZATION.—If the State makes a determination under subparagraph (A), the State may convey or authorize the unit of local government or nonprofit organization to convey the conservation easement to another unit of local government or nonprofit organization.

“(e) ADMINISTRATIVE COSTS.—The State, on approval of the Secretary and subject to any regulations promulgated by the Secretary, may use amounts made available under subsection (g) to pay the administrative costs of the State relating to the program.

“(f) REPORT.—The Secretary shall submit to Congress a report on the eligible projects carried out under this section in accordance with section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1606(c)).

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) \$50,000,000 for fiscal year 2004; and

“(2) such sums as are necessary for each fiscal year thereafter.”.

(b) FOREST LEGACY PROGRAM.—Section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c) is amended—

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

(2) in subsection (i), by striking “subsection (b)” and inserting “this section”;

(3) in subsection (j)(1), by inserting “(other than by donation)” after “acquired”;

(4) in subsection (k)(2), by striking "the United States or its" and inserting "the United States, a State, or other entity, or their"; and

(5) in subsection (l), by adding at the end the following:

"(3) STATE AUTHORIZATION.—

"(A) DEFINITION OF STATE FORESTER.—The term 'State forester' has the meaning given the term in section 4(k).

"(B) IN GENERAL.—Notwithstanding subsection (c) and paragraph (2)(B), the Secretary shall, on request by a State, authorize the State to allow a qualified organization (as defined in section 170(h)(3) of the Internal Revenue Code of 1986) and that is organized for at least 1 of the purposes described in section 170(h)(4)(A) of that Code, using amounts granted to a State under this paragraph, to acquire 1 or more conservation easements to carry out the Forest Legacy Program in the State.

"(C) ELIGIBILITY.—To be eligible to acquire and manage conservation easements under this paragraph, a qualified organization described in subparagraph (B) shall, as determined by the Secretary, acting through the State forester, demonstrate the abilities necessary to acquire, monitor, and enforce interests in forest land consistent with the Forest Legacy Program and the assessment of need for the State.

"(D) MONITORING AND ENFORCEMENT.—

"(i) IN GENERAL.—A qualified organization that acquires a conservation easement under this paragraph shall be responsible for monitoring and enforcing the terms of the conservation easement and any of the costs of the qualified organization associated with such monitoring and enforcement.

"(ii) CONTINGENT RIGHTS.—If a qualified organization that acquires a conservation easement under this paragraph fails to enforce the terms of the conservation easement, as determined by the State, the State or the Secretary shall have the right to enforce the terms of the conservation easement under Federal or State law.

"(iii) AMENDMENTS.—Any amendments to a conservation easement that materially affect the terms of the conservation easement shall be subject to approval by the Secretary or the State, as appropriate.

"(E) TERMINATION OF EASEMENT.—

"(i) IN GENERAL.—Except as provided in clause (ii), all right, title, and interest of a qualified organization described in subparagraph (B) in and to a conservation easement shall terminate and vest in the State or a qualified designee if the State determines that—

"(I) the qualified organization fails to enforce the terms of the conservation easement;

"(II) the conservation easement has been modified in a way that is inconsistent with the purposes of the Forest Legacy Program or the assessment of need for the State; or

"(III) the conservation easement has been conveyed to another person (other than to a qualified organization).

"(ii) CONVEYANCE TO ANOTHER QUALIFIED ORGANIZATION.—If the State makes a determination under clause (i), the State may convey or authorize the qualified organization to convey the conservation easement to another qualified organization.

"(F) IMPLEMENTATION.—The Secretary, acting through the State forester, shall implement this paragraph in accordance with the assessment of need for the State as approved by the Secretary."

SEC. 1111. WILDLAND FIREFIGHTER SAFETY.

(a) DEFINITION OF SECRETARY.—In this section, the term "Secretary" means—

(1) the Secretary of Agriculture, with respect to land of the National Forest System described in section 3(1)(A); and

(2) the Secretary of the Interior, with respect to public lands described in section 3(1)(B).

(b) FIREFIGHTER SAFETY AND TRAINING BUDGET.—The Secretary shall—

(1) track funds expended for firefighter safety and training programs and activities; and

(2) include a line item for such expenditures in each budget request submitted after the date of enactment of this Act.

(c) ANNUAL REPORT TO CONGRESS.—The Secretaries shall, on an annual basis, jointly submit to Congress a report on the implementation and efficacy of wildland firefighter safety and training programs and activities.

(d) SAFETY QUALIFICATION OF PRIVATE CONTRACTORS.—

(1) IN GENERAL.—The Secretaries shall ensure that any Federal contract or agreement entered into with a private entity for wildland firefighting services requires the entity to provide firefighter training that is consistent with qualification standards established by the National Wildfire Coordinating Group.

(2) COMPLIANCE.—The Secretaries shall develop a program to monitor and enforce compliance with the requirements of paragraph (1).

SEC. 1112. GREEN MOUNTAIN NATIONAL FOREST BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of the Green Mountain National Forest are modified to include all parcels of land depicted on the forest maps entitled "Green Mountain Expansion Area Map I" and "Green Mountain Expansion Area Map II", each dated February 20, 2002, which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia.

(b) MANAGEMENT.—Federally owned land delineated on the maps acquired for National Forest purposes shall continue to be managed in accordance with the laws (including regulations) applicable to the National Forest System.

(c) LAND AND WATER CONSERVATION FUND.—For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460–9), the boundaries of the Green Mountain National Forest, as adjusted by this Act, shall be considered to be the boundaries of the national forest as of January 1, 1965.

SEC. 1113. PUERTO RICO KARST CONSERVATION.

(a) SHORT TITLE.—This section may be cited as the "Puerto Rico Karst Conservation Act of 2003".

(b) FINDINGS.—Congress finds that—

(1) in the Karst Region of the Commonwealth of Puerto Rico there are—

(A) some of the largest areas of tropical forests in Puerto Rico, with a higher density of tree species than any other area in the Commonwealth; and

(B) unique geological formations that are critical to the maintenance of aquifers and watersheds that constitute a principal water supply for much of the Commonwealth;

(2) the Karst Region is threatened by development that, if unchecked, could permanently damage the aquifers and cause irreparable damage to natural and environmental assets that are unique to the United States;

(3) the Commonwealth has 1 of the highest population densities in the United States, which makes the protection of the Karst Region imperative for the maintenance of the public health and welfare of the citizens of the Commonwealth;

(4) the Karst Region—

(A) possesses extraordinary ecological diversity, including the habitats of several endangered and threatened species and tropical migrants; and

(B) is an area of critical value to research in tropical forest management; and

(5) coordinated efforts at land protection by the Federal Government and the Commonwealth are necessary to conserve the environmentally critical Karst Region.

(c) PURPOSES.—The purposes of this section are—

(1) to authorize and support conservation efforts to acquire, manage, and protect the tropical forest areas of the Karst Region, with particular emphasis on water quality and the protection of the aquifers that are vital to the

health and wellbeing of the citizens of the Commonwealth; and

(2) to promote cooperation among the Commonwealth, Federal agencies, corporations, organizations, and individuals in those conservation efforts.

(d) DEFINITIONS.—In this section:

(1) COMMONWEALTH.—The term "Commonwealth" means the Commonwealth of Puerto Rico.

(2) FOREST LEGACY PROGRAM.—The term "Forest Legacy Program" means the program established under section 7 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103c).

(3) FUND.—The term "Fund" means the Puerto Rico Karst Conservation Fund established by subsection (f).

(4) KARST REGION.—The term "Karst Region" means the areas in the Commonwealth generally depicted on the map entitled "Karst Region Conservation Area" and dated March 2001, which shall be on file and available for public inspection in—

(A) the Office of the Secretary, Puerto Rico Department of Natural and Environmental Resources; and

(B) the Office of the Chief of the Forest Service.

(5) LAND.—The term "land" includes land, water, and an interest in land or water.

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(e) CONSERVATION OF THE KARST REGION.—

(1) FEDERAL COOPERATION AND ASSISTANCE.—In furtherance of the acquisition, protection, and management of land in and adjacent to the Karst Region and in implementing related natural resource conservation strategies, the Secretary may—

(A) make grants to and enter into contracts and cooperative agreements with the Commonwealth, other Federal agencies, organizations, corporations, and individuals; and

(B) use all authorities available to the Secretary, including—

(i) the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.);

(ii) section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318); and

(iii) section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

(2) FUNDING SOURCES.—The activities authorized by this subsection may be carried out using—

(A) amounts in the Fund;

(B) amounts in the fund established by section 4(b) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643(b));

(C) funds appropriated from the Land and Water Conservation Fund;

(D) funds appropriated for the Forest Legacy Program; and

(E) any other funds made available for those activities.

(3) MANAGEMENT.—

(A) IN GENERAL.—Land acquired under this subsection shall be managed, in accordance with the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.), in a manner to protect and conserve the water quality and aquifers and the geological, ecological, fish and wildlife, and other natural values of the Karst Region.

(B) FAILURE TO MANAGE AS REQUIRED.—In any deed, grant, contract, or cooperative agreement implementing this subsection and the Forest Legacy Program in the Commonwealth, the Secretary may require that, if land acquired by the Commonwealth or other cooperating entity under this section is sold or conveyed in whole or part, or is not managed in conformity with subparagraph (A), title to the land shall, at the discretion of the Secretary, vest in the United States.

(4) WILLING SELLERS.—Any land acquired by the Secretary in the Karst Region shall be acquired only from a willing seller.

(5) RELATION TO OTHER AUTHORITIES.—Nothing in this subsection—

(A) diminishes any other authority that the Secretary may have to acquire, protect, and manage land and natural resources in the Commonwealth; or

(B) exempts the Federal Government from Commonwealth water laws.

(f) PUERTO RICO KARST CONSERVATION FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury an interest-bearing account to be known as the “Puerto Rico Karst Conservation Fund”.

(2) CREDITS TO FUND.—There shall be credited to the Fund—

(A) amounts appropriated to the Fund;

(B) all amounts donated to the Fund;

(C) all amounts generated from the Caribbean National Forest that would, but for this paragraph, be deposited as miscellaneous receipts in the Treasury of the United States, but not including amounts authorized by law for payments to the Commonwealth or authorized by law for retention by the Secretary for any purpose;

(D) all amounts received by the Administrator of General Services from the disposal of surplus real property in the Commonwealth under subtitle I of title 40, United States Code; and

(E) interest derived from amounts in the Fund.

(3) USE OF FUND.—Amounts in the Fund shall be available to the Secretary until expended, without further appropriation, to carry out subsection (e).

(g) MISCELLANEOUS PROVISIONS.—

(1) DONATIONS.—

(A) IN GENERAL.—The Secretary may accept donations, including land and money, made by public and private agencies, corporations, organizations, and individuals in furtherance of the purposes of this subsection.

(B) CONFLICTS OF INTEREST.—The Secretary may accept donations even if the donor conducts business with or is regulated by the Department of Agriculture or any other Federal agency.

(C) APPLICABLE LAW.—Public Law 95-442 (7 U.S.C. 2269) shall apply to donations accepted by the Secretary under this paragraph.

(2) RELATION TO FOREST LEGACY PROGRAM.—

(A) IN GENERAL.—All land in the Karst Region shall be eligible for inclusion in the Forest Legacy Program.

(B) COST SHARING.—The Secretary may credit donations made under paragraph (1) to satisfy any cost-sharing requirements of the Forest Legacy Program.

(h) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 1114. FARM SECURITY AND RURAL INVESTMENT ACT.

Section 10806(b)(1) of the Farm Security and Rural Investment Act of 2002 (21 U.S.C. 321d; 116 Stat. 526), is deemed to have first become effective 15 days after the date of the enactment of this Act.

SEC. 1115. ENFORCEMENT OF ANIMAL FIGHTING PROHIBITIONS UNDER THE ANIMAL WELFARE ACT.

(a) IN GENERAL.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) by redesignating subsections (c) through (h) as subsections (d) through (i), respectively;

(2) by inserting after subsection (b) the following:

“(c) SHARP INSTRUMENTS.—It shall be unlawful for any person to knowingly sell, buy, transport, or deliver in interstate or foreign commerce a knife, a gaff, or any other sharp instrument attached, or designed or intended to be attached, to the leg of a bird for use in an animal fighting venture.”;

(3) in subsection (e) (as redesignated by paragraph (1)), by striking “(c)” and inserting “(d)”;

(4) in subsection (f) (as redesignated by paragraph (1))—

(A) by striking “(a), (b), or (c)” and inserting “(a), (b), (c), or (d)”;

(B) by striking “1 year” and inserting “2 years”;

(5) by striking subsection (g) (as redesignated by paragraph (1)) and inserting the following:

“(g) INVESTIGATIONS.—

“(1) IN GENERAL.—The Secretary or any person authorized by the Secretary shall make such investigations as the Secretary considers necessary to determine whether any person has violated or is violating any provision of this section.

“(2) ASSISTANCE.—Through cooperative agreements, the Secretary may obtain the assistance of the Federal Bureau of Investigation, the Department of the Treasury, and other law enforcement agencies of the United States and of State, tribal, and local governmental agencies in the conduct of an investigation under paragraph (1).

“(3) WARRANTS.—

“(A) ISSUANCE.—A judge of the United States, United States magistrate judge, or judge of a State or tribal court of competent jurisdiction in the district in which is located an animal, paraphernalia, instrument, or other property or thing that there is probable cause to believe was involved, is about to be involved, or is intended to be involved in a violation of this section shall issue a warrant to search for and seize the animal or other property or thing.

“(B) APPLICATION; EXECUTION.—A United States marshal or any person authorized under this section to conduct an investigation may apply for and execute a warrant issued under subparagraph (A), and any animal, paraphernalia, instrument, or other property or thing seized under such a warrant shall be held by the authorized person pending disposition of the animal, paraphernalia, instrument, or other property or thing by a court in accordance with this subsection.

“(4) STORAGE OF ANIMALS.—

“(A) IN GENERAL.—An animal seized by a United States marshal or other authorized person under paragraph (3) shall be taken promptly to an animal housing facility in which the animal shall be stored humanely.

“(B) NO FACILITY AVAILABLE.—If there is not available a suitable animal storage facility sufficient in size to hold all of the animals involved in a violation, a United States marshal or other authorized person shall—

“(i) seize a representative sample of the animals for evidentiary purposes to be transported to an animal storage facility in which the animals shall be stored humanely; and

“(ii)(I) keep the remaining animals at the location where the animals were seized;

“(II) provide for the humane care of the animals; and

“(III) cause the animals to be banded, tagged, or marked by microchip and photographed or videotaped for evidentiary purposes.

“(5) CARE.—While a seized animal is held in custody, a United States marshal or other authorized person shall ensure that the animal is provided necessary care (including housing, feeding, and veterinary treatment).

“(6) FORFEITURE.—

“(A) IN GENERAL.—Any animal, paraphernalia, instrument, vehicle, money, or other property or thing involved in a violation of this section shall be liable to be proceeded against and forfeited to the United States at any time on complaint filed in any United States district court or other court of the United States for any jurisdiction in which the animal, paraphernalia, instrument, vehicle, money, or other property or thing is found.

“(B) DISPOSITION.—On entry of a judgment of forfeiture, a forfeited animal shall be disposed of by humane means, as the court may direct.

“(C) COSTS.—Costs incurred by the United States for care of an animal seized and forfeited

under this section shall be recoverable from the owner of the animal—

“(i) in the forfeiture proceeding, if the owner appears in the forfeiture proceeding; or

“(ii) in a separate civil action brought in the jurisdiction in which the owner is found, resides, or transacts business.

“(D) CLAIM TO PROPERTY.—

“(i) IN GENERAL.—The owner, custodian, or other person claiming an interest in a seized animal may prevent disposition of the animal by posting, or may be ordered by any United States district court or other court of the United States, or by any tribal court, for any jurisdiction in which the animal is found to post, not later than 10 days after the animal is seized, a bond with the court in an amount sufficient to provide for the care of the animal (including housing, feeding, and veterinary treatment) for not less than 30 days.

“(ii) RENEWAL.—The owner, custodian, or other person claiming an interest in a seized animal may renew a bond, or be ordered to renew a bond, by posting a new bond, in an amount sufficient to provide for the care of the animal for at least an additional 30 days, not later than 10 days after the expiration of the period for which a previous bond was posted.

“(iii) DISPOSITION.—If a bond expires and is not renewed, the animal may be disposed of as provided in subparagraph (A).

“(7) EUTHANIZATION.—Notwithstanding paragraphs (1) through (6), an animal may be humanely euthanized if a veterinarian determines that the animal is suffering extreme pain.”; and

(6) in subsection (h) (as redesignated by paragraph (1))—

(A) in subparagraphs (A) and (B) of paragraph (2), by inserting before the semicolon the following: “(including a movement to, from, or within land under the jurisdiction of an Indian tribe)”;

(B) in paragraph (3), by striking “telephone, radio, or television” and inserting “telephone, the Internet, radio, television, or any technology”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 23 of the Animal Welfare Act (7 U.S.C. 2153) is amended—

(1) by striking “SEC. 23. The Secretary” and inserting the following:

“SEC. 23. FEES; AUTHORIZATION OF APPROPRIATIONS.

“(a) FEES.—The Secretary”; and

(2) by striking the third sentence and inserting the following:

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.”.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the later of—

(1) the date of enactment of this Act; or

(2) May 13, 2003.

SEC. 1116. INCREASE IN MAXIMUM FINES FOR VIOLATION OF PUBLIC LAND REGULATIONS AND ESTABLISHMENT OF MINIMUM FINE FOR VIOLATION OF PUBLIC LAND FIRE REGULATIONS DURING FIRE BAN.

(a) LANDS UNDER JURISDICTION OF BUREAU OF LAND MANAGEMENT.—Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a)) is amended—

(1) in the second sentence, by striking “no more than \$1,000” and inserting “as provided in title 18, United States Code.”; and

(2) by inserting after the second sentence the following: “In the case of a regulation issued under this section regarding the use of fire by individuals on the public lands, if the violation of the regulation was the result of reckless conduct and occurred in an area subject to a complete ban on open fires, the fine may not be less than \$500.”.

(b) NATIONAL PARK SYSTEM LANDS.—

(1) FINES.—Section 3 of the Act of August 25, 1916 (popularly known as the National Park Service Organic Act; 16 U.S.C. 3) is amended—

(A) by striking "That the Secretary" at the beginning of the section and inserting "(a) REGULATIONS FOR USE AND MANAGEMENT OF NATIONAL PARK SYSTEM; ENFORCEMENT.—The Secretary";

(B) by striking "\$500" and inserting "\$10,000"; and

(C) by inserting after the first sentence the following: "In the case of a rule or regulation issued under this subsection regarding the use of fire by individuals on such lands, if the violation of the rule or regulation was the result of reckless conduct and occurred in an area subject to a complete ban on open fires, the fine may not be less than \$500."

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) by striking "He may also" the first place it appears and inserting the following:

(b) SPECIAL MANAGEMENT AUTHORITIES.—The Secretary of the Interior may";

(B) by striking "He may also" the second place it appears and inserting "The Secretary may"; and

(C) by striking "No natural," and inserting the following:

(c) LEASE AND PERMIT AUTHORITIES.—No natural".

(c) NATIONAL FOREST SYSTEM LANDS.—The eleventh undesignated paragraph under the heading "SURVEYING THE PUBLIC LANDS" of the Act of June 4, 1897 (16 U.S.C. 551), is amended—

(1) by striking "\$500" and inserting "\$10,000"; and

(2) by inserting after the first sentence the following: "In the case of such a rule or regulation regarding the use of fire by individuals on such lands, if the violation of the rule or regulation was the result of reckless conduct and occurred in an area subject to a complete ban on open fires, the fine may not be less than \$500."

Amend the title so as to read: "An Act to improve the capacity of the Secretary of Agriculture and the Secretary of the Interior to conduct hazardous fuels reduction projects on National Forest System lands and Bureau of Land Management lands aimed at protecting communities, watersheds, and certain other at-risk lands from catastrophic wildfire, to enhance efforts to protect watersheds and address threats to forest and rangeland health, including catastrophic wildfire, across the landscape, and for other purposes."

UNANIMOUS CONSENT REQUEST— H.R. 3365

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3365, the Fallen Patriot's Tax Relief Act; that the McCain-Baucus-Grassley amendment, which is at the desk, be agreed to; the bill, as amended, be read the third time and passed; the title amendment be agreed to; the motions to reconsider be laid upon the table en bloc; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Mr. President, this is H.R. 3365, is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. REID. Mr. President, Senator LANDRIEU has objected to this. I am told that she has been working with the committee on a sense-of-the-Senate resolution that should resolve this. I hope that can be done quickly.

I ask that people direct their attention to Senator LANDRIEU. I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST— H.R. 7

Mr. MCCONNELL. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 7, the charitable choice bill. I further ask unanimous consent that all after the enacting clause be stricken; that the Snowe amendment and the Grassley-Baucus amendment, which are at the desk, be agreed to en bloc; that the substitute amendment, which is the text of S. 476, the Senate-passed version of the charitable choice bill as amended by the Snowe and Grassley-Baucus amendments, be agreed to; that the bill, as amended, be read the third time and passed; that the motion to reconsider be laid upon the table; further, that the Senate insist upon its amendments and request a conference with the House; and lastly, that the Chair be authorized to appoint conferees with a ratio of 3 to 2, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. Mr. President, as some will remember, we on this side are ready to pass this bill with the amendments and send it over to the House for their consideration. The majority insists on going to conference and we object to this part of the consent only. Therefore, I object for the reasons previously stated.

The PRESIDING OFFICER. The objection is heard.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's calendar: Calendar Nos. 430, 431, 432. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed en bloc are as follows:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Naomi Churchill Earp, of Virginia, to be a Member of the Equal Employment Opportunity Commission for a term ending July 1, 2005.

Leslie Silverman, of Virginia, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2008.

Stuart Ishimaru, of the District of Columbia, to be a Member of the Equal Employment Opportunity Commission for a term expiring July 1, 2007.

NOMINATIONS DISCHARGED

Mr. MCCONNELL. Mr. President, I also ask consent that the following nominations be discharged from the Rules Committee and be placed on the calendar: Paul S. DeGregorio, Gracie Hillman, Raymundo Martinez, Deforest Soaries, Jr., and the Senate then return to legislative session.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MEASURE READ THE FIRST TIME—S. 1805

Mr. MCCONNELL. I understand S. 1805, which was introduced earlier today, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1805) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

Mr. MCCONNELL. I now ask for its second reading and object to further proceedings on the matter.

The PRESIDING OFFICER. Objection is heard. The bill will be read the second time on the next legislative day.

MEASURE READ THE FIRST TIME—S. 1806

Mr. MCCONNELL. Mr. President, I understand S. 1806, introduced earlier today, is at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1806) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others.

Mr. MCCONNELL. I now ask for its second reading and object to further proceeding on the matter.

The PRESIDING OFFICER. Objection is heard. The bill will be read the second time on the next legislative day.

FOREIGN OPERATIONS APPROPRIATIONS

VITIATION OF ACTION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the agreement to amendments numbered 1995 and 2004 to H.R. 2800 be vitiated.

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

OCEAN AND COASTAL
OBSERVATION SYSTEMS ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 319, S. 1400.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1400) to develop a system that provides for ocean and coastal observations, to implement a research and development program to enhance security at United States ports, to implement a data and information system required by all components of an integrated ocean observing system and related research, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1400

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

SECTION 1. SHORT TITLE.

[This Act may be cited as the "Ocean Observation and Coastal Systems Act".]

SEC. 2. FINDINGS AND PURPOSES.

[(a) FINDINGS.—The Congress finds the following:

[(1) The 95,000-mile coastline of the United States is vital to the Nation's homeland security, transportation, trade, environmental and human health, recreation and tourism, food production, scientific research and education, historical and cultural heritage, and energy production.

[(2) More than half the Nation's population lives and works in coastal communities that together make up 11 percent of its land and its most ecologically and economically important regions, supporting approximately 190 sea ports, containing most of our largest cities, and providing access to coastal waters rich in natural resources.

[(3) More than 95 percent of the Nation's trade moves by sea and nearly half of all goods, including energy products, carried in maritime commerce are hazardous materials.

[(4) The rich biodiversity of marine organisms provides society with essential food resources, a promising source of marine products with commercial and medical potential, and an important contribution to the national economy.

[(5) The oceans drive climate and weather factors causing severe weather events and threatening the health of coastal ecosystems and communities by creating or affecting both natural and man-made coastal hazards such as hurricanes, tsunamis, erosion, oil spills, harmful algal blooms, and pollution, which can pose threats to human health.

[(6) Each year, the United States Coast Guard relies on ocean information to save 4,380 people, conducts over 65,000 rescue missions, and carries out more than 11,680 environmental cleanups and responses to pollution.

[(7) Safeguarding homeland security requires improved monitoring of the Nation's ports and coastline, including the ability to track vessels and to provide rapid response teams with real-time environmental conditions necessary for their work.

[(8) Advances in ocean technologies and scientific understanding have made possible

long-term and continuous observation from space and in situ of ocean characteristics and conditions.

[(9) Many elements of an ocean and coastal observing system are in place, though in a patchwork manner that is fragmented, intermittent, incomplete, and not integrated.

[(10) Important coastal uses, such as tourism, recreation, and fishing, require assurance of healthy coastal waters, and while the interagency National Coast Condition Report provides an annual assessment of the status and quality of coastal waters, substantial data gaps exist that could be reduced through measurement of coastal quality through a coordinated observing system that incorporates Federal, State, and local monitoring programs.

[(11) National investment in a sustained and integrated ocean and coastal observing system and in coordinated programs of research would assist this Nation and the world in understanding the oceans and the global climate system, strengthen homeland security, improve weather and climate forecasts, strengthen management of marine resources, improve the safety and efficiency of maritime operations, and mitigate coastal hazards.

[(b) PURPOSES.—The purposes of this Act are to provide for—

[(1) development and maintenance of an integrated system that provides for sustained ocean and coastal observations from in situ, remote, and vessel platforms, and that promotes the national goals of assuring national security, advancing economic development, conserving living marine resources, protecting quality of life and the marine environment, and strengthening science education and communication through improved knowledge of the ocean;

[(2) implementation of a research and development program to enhance security at United States ports and minimize security risks; and

[(3) implementation of a data and information system required by all components of an integrated ocean and coastal observing system and related research.

SEC. 3. INTEGRATED OCEAN AND COASTAL OBSERVING SYSTEM.

[(a) ESTABLISHMENT.—The President, through the National Ocean Research Leadership Council, established by section 7902(a) of title 10, United States Code, (hereinafter referred to as the "Council"), shall establish and maintain an integrated system of marine monitoring, data communication and management, data analysis, and research designed to provide data and information for the rapid and timely detection and prediction of changes occurring in the marine environment that impact the Nation's social, economic, and ecological systems. Such an integrated ocean and coastal observing system shall provide for long-term and continuous observations of the oceans and coasts for the following purposes:

[(1) Strengthening homeland security.

[(2) Improving weather forecasts and public warnings of natural disasters and coastal hazards and mitigating such disasters and hazards.

[(3) Understanding, assessing, and responding to human-induced and natural processes of global change.

[(4) Enhancing the safety and efficiency of marine operations.

[(5) Supporting efforts to protect, maintain, and restore the health of and manage coastal and marine ecosystems and living resources.

[(6) Enhancing public health.

[(7) Monitoring and evaluating the effectiveness of ocean and coastal environmental policies.

[(8) Conducting focused research to enhance the national understanding of coastal and global ocean systems.

[(9) Providing information that contributes to public awareness of the condition and importance of the oceans.

[(b) COUNCIL FUNCTIONS.—In carrying out responsibilities under this section, the Council shall—

[(1) serve as the lead entity providing oversight of Federal ocean and coastal observing requirements and activities;

[(2) adopt and maintain plans for the design, operation, and improvement of such system;

[(3) establish an interagency planning office to carry out the duties described in subsection (c);

[(4) coordinate and administer a program of research and development under the National Oceanographic Partnership Program (10 U.S.C. 7901) to support the operation of an integrated ocean and coastal observing system and advance the understanding of the oceans;

[(5) establish a joint operations center to be maintained by the Administrator of the National Oceanic and Atmospheric Administration, in consultation with other Federal agencies; and

[(6) provide, as appropriate, support for and representation on United States delegations to international meetings on ocean and coastal observing programs and in consultation with the Secretary of State to coordinate relevant Federal activities with those of other nations.

[(c) INTERAGENCY PROGRAM OFFICE.—There is established under the Council an interagency planning office. It shall—

[(1) promote collaboration among agencies;

[(2) promote collaboration among regional coastal observing systems established pursuant to subsection (f);

[(3) prepare annual and long-term plans for consideration by the Council for the design and implementation of an integrated ocean and coastal observing system, including the regional coastal observing systems and taking into account the science and technology advances considered ready for operational status;

[(4) provide information for the development of agency budgets;

[(5) identify requirements for a common set of measurements to be collected and distributed;

[(6) establish standards and protocols for quality control and data management and communications, in consultation with the Joint Operations Center established pursuant to subsection (d);

[(7) work with regional coastal observing entities, the National Sea Grant College Program, and other bodies as needed to assess user needs, develop data products, make effective use of existing capabilities, and incorporate new technologies, as appropriate; and

[(8) coordinate program planning and implementation.

[(d) JOINT OPERATIONS CENTER.—The Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Oceanographer of the Navy, the Administrator of the National Aeronautics and Space Administration, the Director of the National Science Foundation, the Commandant of the Coast Guard, the Under Secretary for Science and Technology of the Department of Homeland Security, and any other member of the National Ocean Research Leadership Council as the Council may, by memorandum of agreement, select—

[(1) shall report to the National Ocean Research Leadership Council;

[(2) shall maintain a joint operations center that reports to the Council; and

[(3) is authorized, without limitation—

[(A) to acquire, integrate, and deploy required technologies and provide support for an ocean and coastal observing system based on annual long-term plans developed by the interagency planning office;

[(B) to implement standards and protocols developed in consultation with the interagency planning office for—

[(i) network operations and data access;

[(ii) quality control and assessment of data and design;

[(iii) data access and management, including data transfer protocols and archiving;

[(iv) testing and employment of forecast models for ocean conditions; and

[(v) system products;

[(C) to migrate science and technology advancements from research and development to operational deployment based on the annual and long-term plans of the interagency program office;

[(D) to integrate and extend existing programs into an operating coastal and ocean and coastal observing system based on the annual and long-term plans of the interagency program office;

[(E) to coordinate the data communication and management system;

[(F) to provide products and services as specified by national, regional, and international users;

[(G) to certify that regional coastal observing systems meet the standards established in subsection (f) and to ensure a periodic process for review and recertification of the regional coastal observing systems; and

[(H) to implement standards to ensure compatibility and interoperability among existing and planned system components.

[(e) SYSTEM ELEMENTS.—

[(1) IN GENERAL.—The integrated ocean and coastal observing system shall consist of the following closely linked components:

[(A) A global ocean system to make observations in all oceans (including chemical, physical, and biological observations) for the purpose of documenting, at a minimum, long-term trends in sea level change, ocean carbon sources and sinks, and heat uptake and release by the ocean; and to monitor ocean locations for signs of abrupt or long-term changes in ocean circulation leading to changes in climate.

[(B) The national network of observations and data management that establishes reference and sentinel stations, links the global ocean system to local and regional observations, and provides data and information required by multiple regions.

[(C) Regional coastal observing systems that provide information through the national network and detect and predict conditions and events on a regional scale through the measurement and dissemination of a common set of ocean and coastal observations and related products in a uniform manner and according to sound scientific practice using national standards and protocols.

[(2) SUBSYSTEM LINKAGE.—The integrated ocean and coastal observing system shall link 3 subsystems for rapid access to data and information:

[(A) An observing subsystem to measure, manage, and serve a common set of chemical, physical, geological, and biological variables required to achieve the purpose of this Act on time scales required by users of the system.

[(B) An ocean data management and assimilation subsystem that provides for organization, cataloging, and dissemination of data and information to ensure full use and long term archival.

[(C) A data analysis and applications subsystem to translate data into products and

services in response to user needs and requirements.

[(3) RESEARCH AND DEVELOPMENT.—A research and development program for the integrated ocean and coastal observing system shall be conducted under the National Oceanographic Partnership Program and shall consist of the following elements:

[(A) Coastal, relocatable, and cabled sea floor observatories.

[(B) Focused research projects to improve understanding of the relationship between the oceans and human activities.

[(C) Applied research to develop new observing technologies and techniques, including data management and dissemination.

[(D) Large scale computing resources and research to improve ocean processes modeling.

[(E) Programs to improve public education and awareness of the marine environment and its goods and services.

[(f) REGIONAL COASTAL OBSERVING SYSTEMS.—The Administrator of the National Oceanic and Atmospheric Administration, through the Joint Operations Center, shall work with representatives of entities in each region that provide ocean data and information to users to form regional associations. The regional associations shall be responsible for the development and operation of observing systems in the coastal regions extending to the seaward boundary of the United States Exclusive Economic Zone, including the Great Lakes. Participation in a regional association may consist of legal entities including, research institutions, institutions of higher learning, for-profit corporations, non-profit corporations, State, local, and regional agencies, and consortia of 2 or more such institutions or organizations that—

[(1) have demonstrated an organizational structure capable of supporting and integrating all aspects of a coastal ocean observing system within a region or subregion;

[(2) have prepared an acceptable business plan including research components and gained documented acceptance of its intended regional or sub-regional jurisdiction by users and other parties of interest within the region or sub-region with the objectives of—

[(A) delivering an integrated and sustained system that meets national goals;

[(B) incorporating into the system existing and appropriate regional observations collected by Federal, State, regional, or local agencies;

[(C) responding to the needs of the users, including the public, within the region;

[(D) maintaining sustained, 24-hour-a-day operations and disseminating observations in a manner that is routine, predictable and, if necessary, in real-time or near real-time;

[(E) providing services that include the collection and dissemination of data and data management for timely access to data and information;

[(F) creating appropriate products that are delivered in a timely fashion to the public and others who use, or are affected by, the oceans;

[(G) providing free and open access to the data collected with financial assistance under this Act; and

[(H) adhering to national standards and protocols to ensure that data and related products can be fully exchanged among all of the regional coastal systems and will be accessible to any user in any part of the nation.

[(3) For purposes of determining the civil liability under section 2671 of title 28, United States Code, any regional observing system and any employee thereof that is designated part of a regional association under this subsection shall be deemed to be an instrumen-

tality of the United States with respect to any act or omission committed by any such system or any employee thereof in fulfilling the purposes of this Act.

[(g) PILOT PROJECTS.—

[(1) IN GENERAL.—The Administrator, in consultation with the interagency planning office, shall initiate pilot projects through the National Oceanographic Partnership Program. A pilot project is an organized, planned set of activities designed to provide an evaluation of technology, methods, or concepts within a defined schedule and having the goal of advancing the development of the sustained, integrated ocean observing system. The pilot projects will—

[(A) develop protocols for coordinated implementation of the full system;

[(B) design and implement regional coastal ocean observing systems;

[(C) establish mechanisms for the exchange of data between and among regions and Federal agencies;

[(D) specify products and services and related requirements for observations, data management, and analysis in collaboration with user groups; and

[(E) develop and test new technologies and techniques to improve all three subsystems to more effectively meet the needs of users of the system.

[(2) INFRASTRUCTURE CAPITAL PROJECTS.—The pilot projects shall include one or more projects to capitalize the infrastructure for the collection, management, analysis, and distribution of data and one or more projects where the basic infrastructure and institutional mechanisms already exist for ongoing coastal observations, to fund the operations necessary for the collection of the common set of observations approved by the interagency planning office.

[(SEC. 4. INTERAGENCY FINANCING.)

[(The departments and agencies represented on the Council are authorized to participate in interagency financing and share, transfer, receive and spend funds appropriated to any member of the Council for the purposes of carrying out any administrative or programmatic project or activity under this Act or under the National Oceanographic Partnership Program (10 U.S.C. 7901), including support for a common infrastructure and system integration for an ocean and coastal observing system. Funds may be transferred among such departments and agencies through an appropriate instrument that specifies the goods, services, or space being acquired from another Council member and the costs of the same.)

[(SEC. 5. AUTHORIZATION OF APPROPRIATIONS.)

[(a) OBSERVING SYSTEM AUTHORIZATION.—For development and implementation of an integrated ocean and coastal observing system under section 3, including financial assistance to regional coastal ocean observing systems and in addition to any amounts previously authorized, there are authorized to be appropriated to—

[(1) the National Oceanic and Atmospheric Administration, \$83,000,000 in fiscal year 2004, \$87,250,000 in fiscal year 2005, \$91,500,000 in fiscal year 2006, \$96,000,000 in fiscal year 2007, and \$100,000,000 in fiscal year 2008;

[(2) the National Science Foundation, \$25,000,000 in fiscal year 2004, \$26,250,000 in fiscal year 2005, \$27,500,000 in fiscal year 2006, \$29,000,000 in fiscal year 2007, and \$30,500,000 in fiscal year 2008;

[(3) the National Aeronautics and Space Administration, \$30,000,000 in fiscal year 2004, \$31,500,000 in fiscal year 2005, \$33,000,000 in fiscal year 2006, and \$34,750,000 in each of fiscal years 2007 and 2008;

[(4) the United States Coast Guard, \$8,000,000 in fiscal year 2004, \$8,400,000 in fiscal year 2005, \$9,700,000 in fiscal year 2006,

\$9,500,000 in fiscal year 2007, and \$9,750,000 in fiscal year 2008;

[(5) the Office of Naval Research, \$25,000,000 in fiscal year 2004, \$26,250,000 in fiscal year 2005, \$27,500,000 in fiscal year 2006, \$29,000,000 in fiscal year 2007, and \$30,500,000 in fiscal year 2008;

[(6) the Office of the Oceanographer of the Navy, \$30,000,000 in fiscal year 2004, \$31,500,000 in fiscal year 2005, \$33,000,000 in fiscal year 2006, \$34,750,000 in fiscal year 2007, and \$36,500,000 in fiscal year 2008; and

[(7) other Federal agencies with operational coastal or ocean monitoring systems or which provide funds to States for such systems, \$15,000,000 in each of fiscal years 2004 through 2008.

[(b) REGIONAL COASTAL OBSERVING SYSTEMS.—The Administrator of the National Oceanic and Atmospheric Administration shall make at least 51 percent of the funds appropriated pursuant to subsection (a)(1) available as grants for the development and implementation of the regional coastal observing systems based on the plans adopted by the Council and may be used to leverage non-Federal funds.

[(c) AVAILABILITY.—Sums authorized to be appropriated by this section shall remain available until expended.]

SECTION 1. SHORT TITLE.

This Act may be cited as the “Ocean and Coastal Observation Systems Act”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) The 95,000-mile coastline of the United States is vital to the Nation’s homeland security, transportation, trade, environmental and human health, recreation and tourism, food production, scientific research and education, historical and cultural heritage, and energy production.

(2) More than half the Nation’s population lives and works in coastal communities that together make up 11 percent of its land and its most ecologically and economically important regions, supporting approximately 190 sea ports, containing most of our largest cities, and providing access to coastal waters rich in natural resources.

(3) More than 95 percent of the Nation’s trade moves by sea and nearly half of all goods, including energy products, carried in maritime commerce are hazardous materials.

(4) The rich biodiversity of marine organisms provides society with essential food resources, a promising source of marine products with commercial and medical potential, and an important contribution to the national economy.

(5) The oceans drive climate and weather factors causing severe weather events and threatening the health of coastal ecosystems and communities by creating or affecting both natural and man-made coastal hazards such as hurricanes, tsunamis, erosion, oil spills, harmful algal blooms, hypoxia, and pollution, which can pose threats to human health.

(6) Each year, the United States Coast Guard relies on ocean information to save 4,380 people, conducts over 65,000 rescue missions, and carries out more than 11,680 environmental cleanups and responses to pollution.

(7) Safeguarding homeland security requires improved monitoring of the Nation’s ports and coastline, including the ability to track vessels and to provide rapid response teams with real-time environmental conditions necessary for their work.

(8) Advances in ocean technologies and scientific understanding have made possible long-term and continuous observation from space and in situ of ocean characteristics and conditions.

(9) Many elements of an ocean and coastal observing system are in place, though in a patchwork manner that is fragmented, intermittent, incomplete, and not integrated.

(10) Important coastal uses, such as tourism, recreation, and fishing, require assurance of healthy coastal waters, and while the interagency National Coast Condition Report provides an annual assessment of the status and quality of coastal waters, substantial data gaps exist that could be reduced through measurement of coastal quality through a coordinated observing system that incorporates Federal, State, and local monitoring programs.

(11) National investment in a sustained and integrated ocean and coastal observing system and in coordinated programs of research would assist this Nation and the world in understanding the oceans and the global climate system, strengthen homeland security, improve weather and climate forecasts, strengthen management of marine resources, improve the safety and efficiency of maritime operations, and mitigate coastal hazards.

(b) PURPOSES.—The purposes of this Act are to provide for—

(1) development and maintenance of an integrated system that provides for sustained ocean and coastal observations from in situ, remote, and vessel platforms, and that promotes the national goals of assuring national security, advancing economic development, conserving living marine resources, protecting quality of life and the marine environment, and strengthening science education and communication through improved knowledge of the ocean;

(2) implementation of a research and development program to enhance security at United States ports and minimize security risks; and

(3) implementation of a data and information system required by all components of an integrated ocean and coastal observing system and related research.

SEC. 3. INTEGRATED OCEAN AND COASTAL OBSERVING SYSTEM.

(a) ESTABLISHMENT.—The President, through the National Ocean Research Leadership Council, established by section 7902(a) of title 10, United States Code, (hereinafter referred to as the “Council”), shall establish and maintain an integrated system of marine monitoring, data communication and management, data analysis, and research designed to provide data and information for the rapid and timely detection and prediction of changes occurring in the marine environment that impact the Nation’s social, economic, and ecological systems. Such an integrated ocean and coastal observing system shall provide for long-term and continuous observations of the oceans and coasts for the following purposes:

(1) Strengthening homeland security.

(2) Improving weather forecasts and public warnings of natural disasters and coastal hazards and mitigating such disasters and hazards.

(3) Understanding, assessing, and responding to human-induced and natural processes of global change.

(4) Enhancing the safety and efficiency of marine operations.

(5) Supporting efforts to protect, maintain, and restore the health of and manage coastal and marine ecosystems and living resources.

(6) Enhancing public health.

(7) Monitoring and evaluating the effectiveness of ocean and coastal environmental policies.

(8) Conducting focused research to enhance the national understanding of coastal and global ocean systems.

(9) Providing information that contributes to public awareness of the condition and importance of the oceans.

(b) COUNCIL FUNCTIONS.—In carrying out responsibilities under this section, the Council shall—

(1) serve as the lead entity providing oversight of Federal ocean and coastal observing requirements and activities;

(2) adopt and maintain plans for the design, operation, and improvement of such system;

(3) establish an interagency planning office to carry out the duties described in subsection (c);

(4) coordinate and administer a program of research and development under the National Oceanographic Partnership Program (10 U.S.C. 7901) to support the operation of an integrated ocean and coastal observing system and advance the understanding of the oceans;

(5) establish a joint operations center to be maintained by the Administrator of the National Oceanic and Atmospheric Administration, in consultation with other Federal agencies; and

(6) provide, as appropriate, support for and representation on United States delegations to international meetings on ocean and coastal observing programs and in consultation with the Secretary of State to coordinate relevant Federal activities with those of other nations.

(c) INTERAGENCY PROGRAM OFFICE.—There is established under the Council an interagency planning office. It shall—

(1) promote collaboration among agencies;

(2) promote collaboration among regional coastal observing systems established pursuant to subsection (f);

(3) prepare annual and long-term plans for consideration by the Council for the design and implementation of an integrated ocean and coastal observing system, including the regional coastal observing systems and taking into account the science and technology advances considered ready for operational status;

(4) provide information for the development of agency budgets;

(5) identify requirements for a common set of measurements to be collected and distributed;

(6) establish standards and protocols for quality control and data management and communications, in consultation with the Joint Operations Center established pursuant to subsection (d);

(7) work with regional coastal observing entities, the National Sea Grant College Program, and other bodies as needed to assess user needs, develop data products, make effective use of existing capabilities, and incorporate new technologies, as appropriate; and

(8) coordinate program planning and implementation.

(d) JOINT OPERATIONS CENTER.—The Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Oceanographer of the Navy, the Administrator of the National Aeronautics and Space Administration, the Director of the National Science Foundation, the Commandant of the Coast Guard, the Under Secretary for Science and Technology of the Department of Homeland Security, and any other member of the Council as the Council may, by memorandum of agreement, select—

(1) shall operate and maintain a joint operations center that reports to the Council; and

(2) is authorized—

(A) to acquire, integrate, and deploy required technologies and provide support for an ocean and coastal observing system based on annual long-term plans developed by the interagency planning office;

(B) to implement standards and protocols developed in consultation with the interagency planning office for—

(i) network operations and data access;

(ii) quality control and assessment of data and design;

(iii) data access and management, including data transfer protocols and archiving;

(iv) testing and employment of forecast models for ocean conditions; and

(v) system products;

(C) to migrate science and technology advancements from research and development to operational deployment based on the annual and long-term plans of the interagency program office;

(D) to integrate and extend existing programs into an operating ocean and coastal observing system based on the annual and long-term plans of the interagency program office;

(E) to coordinate the data communication and management system;

(F) to provide products and services as specified by national, regional, and international users;

(G) to certify that regional coastal observing systems meet the standards established in subsection (f) and to ensure a periodic process for review and recertification of the regional coastal observing systems; and

(H) to implement standards to ensure compatibility and interoperability among existing and planned system components.

(e) SYSTEM ELEMENTS.—

(1) IN GENERAL.—The integrated ocean and coastal observing system shall consist of the following closely linked components:

(A) A global ocean system to make observations in all oceans (including chemical, physical, and biological observations) for the purpose of documenting, at a minimum, long-term trends in sea level change, ocean carbon sources and sinks, and heat uptake and release by the ocean; and to monitor ocean locations for signs of abrupt or long-term changes in ocean circulation leading to changes in climate.

(B) The national network of observations and data management that establishes reference and sentinel stations, links the global ocean system to local and regional observations, and provides data and information required by multiple regions.

(C) Regional coastal observing systems that provide information through the national network and detect and predict conditions and events on a regional scale through the measurement and dissemination of a common set of ocean and coastal observations and related products in a uniform manner and according to sound scientific practice using national standards and protocols.

(2) SUBSYSTEM LINKAGE.—The integrated ocean and coastal observing system shall link 3 subsystems for rapid access to data and information:

(A) An observing subsystem to measure, manage, and serve a common set of chemical, physical, geological, and biological variables required to achieve the purpose of this Act on time scales required by users of the system.

(B) An ocean and coastal data management and assimilation subsystem that provides for organization, cataloging, and dissemination of data and information to ensure full use and long term archival.

(C) A data analysis and applications subsystem to translate data into products and services in response to user needs and requirements.

(3) INTEGRATION OF EXISTING CENTERS.—The integrated ocean and coastal observing system shall integrate the capabilities of the Coast Services Center and the National Coastal Data Development Center of the National Oceanic and Atmospheric Administration, and other appropriate centers.

(4) RESEARCH AND DEVELOPMENT.—A research and development program for the integrated ocean and coastal observing system shall be conducted under the National Oceanographic Partnership Program and shall consist of the following elements:

(A) Coastal, relocatable, and cabled sea floor observatories.

(B) Focused research projects to improve understanding of the relationship between the oceans and human activities.

(C) Applied research to develop new observing technologies and techniques, including data management and dissemination.

(D) Large scale computing resources and research to improve ocean processes modeling.

(E) Programs to improve public education and awareness of the marine environment and its goods and services.

(f) REGIONAL COASTAL OBSERVING SYSTEMS.—The Administrator of the National Oceanic and Atmospheric Administration, through the Joint Operations Center, shall work with representatives of entities in each region that provide ocean data and information to users to form re-

gional associations. The regional associations shall be responsible for the development and operation of observing systems in the coastal regions extending to the seaward boundary of the United States Exclusive Economic Zone, including the Great Lakes. Participation in a regional association may consist of legal entities including, research institutions, institutions of higher learning, for-profit corporations, non-profit corporations, State, local, and regional agencies, and consortia of 2 or more such institutions or organizations that—

(1) have demonstrated an organizational structure capable of supporting and integrating all aspects of a coastal ocean observing system within a region or subregion;

(2) have prepared an acceptable business plan including research components and gained documented acceptance of its intended regional or sub-regional jurisdiction by users and other parties of interest within the region or sub-region with the objectives of—

(A) delivering an integrated and sustained system that meets national goals;

(B) incorporating into the system existing and appropriate regional observations collected by Federal, State, regional, or local agencies;

(C) responding to the needs of the users, including the public, within the region;

(D) maintaining sustained, 24-hour-a-day operations and disseminating observations in a manner that is routine, predictable and, if necessary, in real-time or near real-time;

(E) providing services that include the collection and dissemination of data and data management for timely access to data and information;

(F) creating appropriate products that are delivered in a timely fashion to the public and others who use, or are affected by, the oceans;

(G) providing free and open access to the data collected with financial assistance under this Act; and

(H) adhering to national standards and protocols to ensure that data and related products can be fully exchanged among all of the regional coastal systems and will be accessible to any user in any part of the nation.

(3) For purposes of determining the civil liability under section 2671 of title 28, United States Code, any regional observing system and any employee thereof that is designated part of a regional association under this subsection shall be deemed to be an instrumentality of the United States with respect to any act or omission committed by any such system or any employee thereof in fulfilling the purposes of this Act.

(g) PILOT PROJECTS.—

(1) IN GENERAL.—The Administrator, in consultation with the interagency planning office, shall initiate pilot projects through the National Oceanographic Partnership Program. A pilot project is an organized, planned set of activities designed to provide an evaluation of technology, methods, or concepts within a defined schedule and having the goal of advancing the development of the sustained, integrated ocean observing system. The pilot projects will—

(A) develop protocols for coordinated implementation of the full system;

(B) design and implement regional coastal ocean observing systems;

(C) establish mechanisms for the exchange of data between and among regions and Federal agencies;

(D) specify products and services and related requirements for observations, data management, and analysis in collaboration with user groups; and

(E) develop and test new technologies and techniques to improve all three subsystems to more effectively meet the needs of users of the system.

(2) INFRASTRUCTURE CAPITAL PROJECTS.—The pilot projects shall include one or more projects to capitalize the infrastructure for the collection, management, analysis, and distribution of data and one or more projects where the basic

infrastructure and institutional mechanisms already exist for ongoing coastal observations, to fund the operations necessary for the collection of the common set of observations approved by the interagency planning office.

SEC. 4. INTERAGENCY FINANCING.

The departments and agencies represented on the Council are authorized to participate in interagency financing and share, transfer, receive and spend funds appropriated to any member of the Council for the purposes of carrying out any administrative or programmatic project or activity under this Act or under the National Oceanographic Partnership Program (10 U.S.C. 7901), including support for a common infrastructure and system integration for an ocean and coastal observing system. Funds may be transferred among such departments and agencies through an appropriate instrument that specifies the goods, services, or space being acquired from another Council member and the costs of the same.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) OBSERVING SYSTEM AUTHORIZATION.—For development and implementation of an integrated ocean and coastal observing system under section 3, including financial assistance to regional coastal ocean observing systems and in addition to any amounts previously authorized, there are authorized to be appropriated to—

(1) the National Oceanic and Atmospheric Administration, \$83,000,000 in fiscal year 2004, \$87,250,000 in fiscal year 2005, \$91,500,000 in fiscal year 2006, \$96,000,000 in fiscal year 2007, and \$100,000,000 in fiscal year 2008;

(2) the National Science Foundation, \$25,000,000 in fiscal year 2004, \$26,250,000 in fiscal year 2005, \$27,500,000 in fiscal year 2006, \$29,000,000 in fiscal year 2007, and \$30,500,000 in fiscal year 2008;

(3) the National Aeronautics and Space Administration, \$30,000,000 in fiscal year 2004, \$31,500,000 in fiscal year 2005, \$33,000,000 in fiscal year 2006, and \$34,750,000 in each of fiscal years 2007 and 2008;

(4) the United States Coast Guard, \$8,000,000 in fiscal year 2004, \$8,400,000 in fiscal year 2005, \$9,700,000 in fiscal year 2006, \$9,500,000 in fiscal year 2007, and \$9,750,000 in fiscal year 2008;

(5) the Office of Naval Research, \$25,000,000 in fiscal year 2004, \$26,250,000 in fiscal year 2005, \$27,500,000 in fiscal year 2006, \$29,000,000 in fiscal year 2007, and \$30,500,000 in fiscal year 2008;

(6) the Office of the Oceanographer of the Navy, \$30,000,000 in fiscal year 2004, \$31,500,000 in fiscal year 2005, \$33,000,000 in fiscal year 2006, \$34,750,000 in fiscal year 2007, and \$36,500,000 in fiscal year 2008; and

(7) other Federal agencies with operational coastal or ocean monitoring systems or which provide funds to States for such systems, \$15,000,000 in each of fiscal years 2004 through 2008.

(b) REGIONAL COASTAL OBSERVING SYSTEMS.—The Administrator of the National Oceanic and Atmospheric Administration shall make at least 51 percent of the funds appropriated pursuant to subsection (a)(1) available as grants for the development and implementation of the regional coastal observing systems based on the plans adopted by the Council and may be used to leverage non-Federal funds.

(c) HIGH-FREQUENCY SURFACE WAVE RADAR.—The Administrator of the National Oceanic and Atmospheric Administration may make available \$3,000,000 of the funds appropriated pursuant to subsection (a)(1) for fiscal year 2004 to demonstrate the capabilities of shore-based high-frequency surface wave radar to measure real-time wave height, wave velocity, wave period, tidal velocity, and wind speed within and beyond the Exclusive Economic Zone of the United States.

(d) AVAILABILITY.—Sums authorized to be appropriated by this section shall remain available until expended.

Ms. SNOWE. Mr. President, I thank you for allowing the Senate to consider

S. 1400, the Ocean and Coastal Observation Systems Act of 2003. I would also like to thank several of my colleagues for co-sponsoring this bill, including Senators KERRY, MCCAIN, HOLLINGS, BREAUX, INOUE, LOTT, BOXER, and COLLINS.

Those familiar with the challenges of trying to monitor and predict ocean and marine environmental conditions—whether for marine science, resource management, and maritime transportation and safety—are aware of our tremendous need for better collection of basic ocean data. This bill, the Ocean and Coastal Observation Systems Act of 2003, would develop and formalize an integrated network of ocean observing systems around our Nation's coastlines, thereby allowing comprehensive and consistent ocean data to be gathered and fulfilling this critical information need. It would revolutionize our Nation's efforts in collecting, processing, and communicating ocean and coastal data.

Like other coastal states, Maine has an enduring connection to the ocean. We are highly dependent on the fisheries resources and other essential services provided to us by the sea, and we understand that our lives and livelihoods are firmly rooted in how well we understand and adapt to ocean conditions. This became much easier to do in 2001, when the Gulf of Maine Ocean Observing System, or GoMOOS, deployed ten observation buoys in the Gulf of Maine. This prototype system has transformed how we gather information about the ocean and track ocean conditions over time. On the surface, these buoys measure currents, temperature, salinity, turbidity, dissolved oxygen, and other key environmental variables. By modifying the instrumentation, other data can be gathered from these platforms.

What sets the GoMOOS observation system apart from the traditional data gathering approach, however, is that it takes all these ocean and surface condition measurements on an hourly basis through a network of linked buoys, and these near real-time measurements can be monitored and accessed by the general public through the internet. GoMOOS thereby provides a tremendous public service.

The need for this type of ocean data gathering and access is not limited to the Gulf of Maine. The U.S. coastline spans 95,000 miles, and all States that border our oceans and Great Lakes would benefit from this service. Ocean and coastal observing systems have been planned or developed for other coastal regions, many in conjunction with the National Oceanic and Atmospheric Administration, State coastal management agencies, universities, and other regional partners. These systems, however, use different approaches for collecting, managing, processing, and communicating data through their network, and these data are often incompatible with data from other regions. As a result, we lose a

valuable opportunity to develop a comprehensive picture of coastal and ocean conditions around the Nation.

S. 1400, the Ocean and Coastal Observation Systems Act, seeks to solve this problem. This bill would coordinate ocean and coastal observation efforts with the support of the Federal Government. It would help develop regional observation systems, link them through a nationwide network, and provide public access to the information so anyone can better understand and track ocean and coastal conditions. It would call on the National Ocean Research Leadership Council to design, operate, and improve a Nationwide observation system, as well as administer an ocean data research and development program. This Council would plan these activities through a collaborative interagency planning office and carry them out through a joint operations center.

The American public—over half of which lives along our coastlines—will be very well served through the many uses and applications of this system. Fisheries, scientists, and managers can use this information to predict ocean conditions that affect productivity and utilize this information in resource management. Fishermen, sailors, Coast Guard search-and-rescue units, the military, and others who traverse the ocean can better predict safe sea conditions, and shippers can transport goods more efficiently. Ocean scientists and regulators can better understand, predict, and rapidly respond to marine pollution. Educators and students can learn more about marine science. Clearly, anyone who relies upon the ocean stands to benefit from this Nationwide observation system.

Mr. President, as Chair of the Subcommittee on Oceans, Fisheries, and Coast Guard and as a coastal State Senator, I am extremely proud to sponsor and support this bill. Considering the tremendous public good and services that these systems provide, it is imperative that we in Congress facilitate the development and funding of a national, integrated, and sustained ocean observation network. We can do this by passing the Ocean and Coastal Observation Systems Act. Following action by the Senate, I encourage the House of Representatives to take action on this bill to facilitate its passage into law. I am confident that this bill, once enacted, will serve the public well by facilitating better understanding of our Nation's oceans and coasts, and I thank my colleagues for supporting it.

Mr. McCONNELL. Mr. President, I ask unanimous consent the committee amendment be agreed to, the bill be read a third time and passed, the motions to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

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

The bill (S. 1400), as amended, was passed.

AUTHORIZING APPROPRIATIONS FOR THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 348, S. 1757.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1757) to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment, as follows:

[Strike the part shown in the black brackets and insert the part shown in italic.]

S. 1757

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

SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR THE JOHN F. KENNEDY CENTER.

Section 13 of the John F. Kennedy Center Act (20 U.S.C. 76r) is amended by striking subsections (a) and (b) and inserting the following:

“(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H)—

“(1) \$17,000,000 for fiscal year 2004; and

“(2) \$18,000,000 for each of fiscal years 2005 through 2008.

“(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section (4)(a)(1)—

“(1) \$16,000,000 for fiscal year 2004; and

“(2) \$18,000,000 for each of fiscal years 2005 through 2008.”.]

“(1) \$16,000,000 for fiscal year 2004;

“(2) \$18,000,000 for each of fiscal years 2005 and 2006; and

“(3) \$12,000,000 for fiscal years 2007 and 2008.”.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the committee amendment be agreed to the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 1757), as amended, was read the third time and passed, as follows:

S. 1757

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

SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR THE JOHN F. KENNEDY CENTER.

Section 13 of the John F. Kennedy Center Act (20 U.S.C. 76r) is amended by striking subsections (a) and (b) and inserting the following:

“(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H)—

“(1) \$17,000,000 for fiscal year 2004; and
“(2) \$18,000,000 for each of fiscal years 2005 through 2008.

“(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1)—

“(1) \$16,000,000 for fiscal year 2004;
“(2) \$18,000,000 for each of fiscal years 2005 and 2006; and
“(3) \$12,000,000 for fiscal years 2007 and 2008.”

CAPTIVE WILDLIFE SAFETY ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 320, S. 269.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows: A bill (S. 269) to amend the Lacey Act Amendments of 1981 to further the conservation of certain wildlife species.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 269

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Captive Wildlife Safety Act”.

SEC. 2. DEFINITION OF PROHIBITED WILDLIFE SPECIES.

Section 2 of the Lacey Act Amendments of 1981 (16 U.S.C. 3371) is amended—

(1) by redesignating subsections (g) through (j) as subsections (h) through (k), respectively; and

(2) by inserting after subsection (f) the following:

“(k) PROHIBITED WILDLIFE SPECIES.—The term ‘prohibited wildlife species’ means any live lion, tiger, leopard, cheetah, jaguar, or cougar.”

“(g) PROHIBITED WILDLIFE SPECIES.—The term ‘prohibited wildlife species’ means—

“(A) any live species of lion, tiger, leopard, cheetah, jaguar, or cougar; and

“(B) any live hybrid of any of those species.”

SEC. 3. PROHIBITED ACTS.

(a) IN GENERAL.—Section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking “, or” at the end and inserting a semicolon;

(ii) in subparagraph (B), by inserting “or” after the semicolon at the end; and

(iii) by adding at the end the following:

“(C) any prohibited wildlife species (subject to subsection (e));”;

(B) in paragraph (3)(B), by inserting “or” after the semicolon at the end; and

(C) in paragraph (4), by striking “paragraphs (1) through (4)” and inserting “paragraphs (1) through (3)”;

(2) by adding at the end the following:

“(e) NONAPPLICABILITY OF PROHIBITED WILDLIFE SPECIES OFFENSE.—

“(1) IN GENERAL.—Subsection (a)(2)(C) does not apply to—

“(A) any [zoo, circus,] exhibitor or research facility licensed or registered and inspected by a Federal agency[, or aquarium];

“(B) any person accredited by the Association of Sanctuaries or the American Sanctuary Association;]

“(B) any sanctuary, humane society, animal shelter, or society for the prevention of cruelty to animals that—

“(i)(I) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code; and

“(II) is an organization described in section 170(b)(1)(A)(vi) of that Code;

“(ii) does not engage in commercial trade of animals listed in section 2(k) (including any sale of animals, animal parts, byproducts, or offspring, exhibition of animals for photograph opportunities, or conduct of public events with live animals for financial profit or any other entertainment purpose);

“(iii) does not propagate animals in a facility of the sanctuary, humane society, animal shelter, or society for the prevention of cruelty to animals;

“(iv) does not—

“(I) allow unescorted public visitation or direct contact between the public and wild animals; or

“(II) take animals from a sanctuary or enclosure for exhibition; and

“(v) maintains exceptional standards of animal care;

“(C) any State college, university, or agency, State-licensed wildlife rehabilitator, or State-licensed veterinarian;

“(D) any incorporated humane society, animal shelter, or society for the prevention of cruelty to animals;

“(E) any federally-licensed and inspected breeder or dealer that is conducting any breeding or dealing activity with a person referred to in this paragraph; or]

“(D) any federally-licensed and inspected broker or dealer in a case in which the broker or dealer is conducting any brokering or dealing activity with a person referred to in this paragraph; or

“(F) (E) any person having custody of a wild animal solely for the purpose of expeditiously transporting the animal to a person referred to in this paragraph.

(2) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in cooperation with the Director of the Animal and Plant Health Inspection Service and in consultation with the heads of other relevant Federal agencies, shall promulgate regulations describing the persons or entities to which paragraph (1) applies.

(3) STATE AUTHORITY.—Nothing in this subsection preempts or supersedes the authority of a State to regulate wildlife species within that State.”

(b) APPLICATION.—Section 3(a)(2)(C) of the Lacey Act Amendments of 1981 (as added by subsection (a)(1)(A)(iii)) shall apply beginning on the effective date of regulations promulgated under section 3(e)(2) of that Act (as added by subsection (a)(2)).

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, the bill, as amended, be read three times and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The committee amendments were agreed to.

The bill (S. 269), as amended, was read the third time and passed, as follows:

S. 269

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Captive Wildlife Safety Act”.

SEC. 2. DEFINITION OF PROHIBITED WILDLIFE SPECIES.

Section 2 of the Lacey Act Amendments of 1981 (16 U.S.C. 3371) is amended—

(1) by redesignating subsections (g) through (j) as subsections (h) through (k), respectively; and

(2) by inserting after subsection (f) the following:

“(g) PROHIBITED WILDLIFE SPECIES.—The term ‘prohibited wildlife species’ means—

“(A) any live species of lion, tiger, leopard, cheetah, jaguar, or cougar; and

“(B) any live hybrid of any of those species.”

SEC. 3. PROHIBITED ACTS.

(a) IN GENERAL.—Section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking “, or” at the end and inserting a semicolon;

(ii) in subparagraph (B), by inserting “or” after the semicolon at the end; and

(iii) by adding at the end the following:

“(C) any prohibited wildlife species (subject to subsection (e));”;

(B) in paragraph (3)(B), by inserting “or” after the semicolon at the end; and

(C) in paragraph (4), by striking “paragraphs (1) through (4)” and inserting “paragraphs (1) through (3)”;

(2) by adding at the end the following:

“(e) NONAPPLICABILITY OF PROHIBITED WILDLIFE SPECIES OFFENSE.—

“(1) IN GENERAL.—Subsection (a)(2)(C) does not apply to—

“(A) any exhibitor or research facility licensed or registered and inspected by a Federal agency;

“(B) any sanctuary, humane society, animal shelter, or society for the prevention of cruelty to animals that—

“(i)(I) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code; and

“(II) is an organization described in section 170(b)(1)(A)(vi) of that Code;

“(ii) does not engage in commercial trade of animals listed in section 2(k) (including any sale of animals, animal parts, byproducts, or offspring, exhibition of animals for photograph opportunities, or conduct of public events with live animals for financial profit or any other entertainment purpose);

“(iii) does not propagate animals in a facility of the sanctuary, humane society, animal shelter, or society for the prevention of cruelty to animals;

“(iv) does not—

“(I) allow unescorted public visitation or direct contact between the public and wild animals; or

“(II) take animals from a sanctuary or enclosure for exhibition; and

“(v) maintains exceptional standards of animal care;

“(C) any State college, university, or agency, State-licensed wildlife rehabilitator, or State-licensed veterinarian;

“(D) any federally-licensed and inspected broker or dealer in a case in which the broker or dealer is conducting any brokering or dealing activity with a person referred to in this paragraph; or

“(E) any person having custody of a wild animal solely for the purpose of expeditiously transporting the animal to a person referred to in this paragraph.

“(2) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in cooperation with the Director of the Animal and Plant Health Inspection Service and in consultation with the heads of other relevant Federal agencies, shall promulgate regulations describing the persons or entities to which paragraph (1) applies.

“(3) STATE AUTHORITY.—Nothing in this subsection preempts or supersedes the authority of a State to regulate wildlife species within that State.”

(b) APPLICATION.—Section 3(a)(2)(C) of the Lacey Act Amendments of 1981 (as added by subsection (a)(1)(A)(iii)) shall apply beginning on the effective date of regulations promulgated under section 3(e)(2) of that Act (as added by subsection (a)(2)).

MARINE TURTLE CONSERVATION ACT OF 2003

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of Calendar No. 313, S. 1210.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 1210) to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1210) was read the third time and passed, as follows:

S. 1210

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Marine Turtle Conservation Act of 2003”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) marine turtle populations have declined to the point that the long-term survival of the loggerhead, green, hawksbill, Kemp’s ridley, olive ridley, and leatherback turtle in the wild is in serious jeopardy;

(2) 6 of the 7 recognized species of marine turtles are listed as threatened or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all 7 species have been included in Appendix I of CITES;

(3) because marine turtles are long-lived, late-maturing, and highly migratory, marine turtles are particularly vulnerable to the impacts of human exploitation and habitat loss;

(4) illegal international trade seriously threatens wild populations of some marine turtle species, particularly the hawksbill turtle;

(5) the challenges facing marine turtles are immense, and the resources available have not been sufficient to cope with the continued loss of nesting habitats caused by human activities and the consequent diminution of marine turtle populations;

(6) because marine turtles are flagship species for the ecosystems in which marine turtles are found, sustaining healthy popu-

lations of marine turtles provides benefits to many other species of wildlife, including many other threatened or endangered species;

(7) marine turtles are important components of the ecosystems that they inhabit, and studies of wild populations of marine turtles have provided important biological insights;

(8) changes in marine turtle populations are most reliably indicated by changes in the numbers of nests and nesting females; and

(9) the reduction, removal, or other effective addressing of the threats to the long-term viability of populations of marine turtles will require the joint commitment and effort of—

(A) countries that have within their boundaries marine turtle nesting habitats; and

(B) persons with expertise in the conservation of marine turtles.

(b) PURPOSE.—The purpose of this Act is to assist in the conservation of marine turtles and the nesting habitats of marine turtles in foreign countries by supporting and providing financial resources for projects to conserve the nesting habitats, conserve marine turtles in those habitats, and address other threats to the survival of marine turtles.

SEC. 3. DEFINITIONS.

In this Act:

(1) CITES.—The term “CITES” means the Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087; TIAS 8249).

(2) CONSERVATION.—The term “conservation” means the use of all methods and procedures necessary to protect nesting habitats of marine turtles in foreign countries and of marine turtles in those habitats, including—

(A) protection, restoration, and management of nesting habitats;

(B) onsite research and monitoring of nesting populations, nesting habitats, annual reproduction, and species population trends;

(C) assistance in the development, implementation, and improvement of national and regional management plans for nesting habitat ranges;

(D) enforcement and implementation of CITES and laws of foreign countries to—

(i) protect and manage nesting populations and nesting habitats; and

(ii) prevent illegal trade of marine turtles;

(E) training of local law enforcement officials in the interdiction and prevention of—

(i) the illegal killing of marine turtles on nesting habitat; and

(ii) illegal trade in marine turtles;

(F) initiatives to resolve conflicts between humans and marine turtles over habitat used by marine turtles for nesting;

(G) community outreach and education; and

(H) strengthening of the ability of local communities to implement nesting population and nesting habitat conservation programs.

(3) FUND.—The term “Fund” means the Marine Turtle Conservation Fund established by section 5.

(4) MARINE TURTLE.—

(A) IN GENERAL.—The term “marine turtle” means any member of the family Cheloniidae or Dermochelyidae.

(B) INCLUSIONS.—The term “marine turtle” includes—

(i) any part, product, egg, or offspring of a turtle described in subparagraph (A); and

(ii) a carcass of such a turtle.

(5) MULTINATIONAL SPECIES CONSERVATION FUND.—The term “Multinational Species Conservation Fund” means the fund established under the heading “MULTINATIONAL SPECIES CONSERVATION FUND” in title I of the

Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 4246).

(6) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 4. MARINE TURTLE CONSERVATION ASSISTANCE.

(a) IN GENERAL.—Subject to the availability of funds and in consultation with other Federal officials, the Secretary shall use amounts in the Fund to provide financial assistance for projects for the conservation of marine turtles for which project proposals are approved by the Secretary in accordance with this section.

(b) PROJECT PROPOSALS.—

(1) ELIGIBLE APPLICANTS.—A proposal for a project for the conservation of marine turtles may be submitted to the Secretary by—

(A) any wildlife management authority of a foreign country that has within its boundaries marine turtle nesting habitat if the activities of the authority directly or indirectly affect marine turtle conservation; or

(B) any other person or group with the demonstrated expertise required for the conservation of marine turtles.

(2) REQUIRED ELEMENTS.—A project proposal shall include—

(A) a statement of the purposes of the project;

(B) the name of the individual with overall responsibility for the project;

(C) a description of the qualifications of the individuals that will conduct the project;

(D) a description of—

(i) methods for project implementation and outcome assessment;

(ii) staff and community management for the project; and

(iii) the logistics of the project;

(E) an estimate of the funds and time required to complete the project;

(F) evidence of support for the project by appropriate governmental entities of the countries in which the project will be conducted, if the Secretary determines that such support is required for the success of the project;

(G) information regarding the source and amount of matching funding available for the project; and

(H) any other information that the Secretary considers to be necessary for evaluating the eligibility of the project for funding under this Act.

(c) PROJECT REVIEW AND APPROVAL.—

(1) IN GENERAL.—The Secretary shall—

(A) not later than 30 days after receiving a project proposal, provide a copy of the proposal to other Federal officials, as appropriate; and

(B) review each project proposal in a timely manner to determine whether the proposal meets the criteria specified in subsection (d).

(2) CONSULTATION; APPROVAL OR DISAPPROVAL.—Not later than 180 days after receiving a project proposal, and subject to the availability of funds, the Secretary, after consulting with other Federal officials, as appropriate, shall—

(A) consult on the proposal with the government of each country in which the project is to be conducted;

(B) after taking into consideration any comments resulting from the consultation, approve or disapprove the project proposal; and

(C) provide written notification of the approval or disapproval to the person that submitted the project proposal, other Federal officials, and each country described in subparagraph (A).

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a project proposal under this section if the project will help recover

and sustain viable populations of marine turtles in the wild by assisting efforts in foreign countries to implement marine turtle conservation programs.

(e) **PROJECT SUSTAINABILITY.**—To the maximum extent practicable, in determining whether to approve project proposals under this section, the Secretary shall give preference to conservation projects that are designed to ensure effective, long-term conservation of marine turtles and their nesting habitats.

(f) **MATCHING FUNDS.**—In determining whether to approve project proposals under this section, the Secretary shall give preference to projects for which matching funds are available.

(g) **PROJECT REPORTING.**—

(1) **IN GENERAL.**—Each person that receives assistance under this section for a project shall submit to the Secretary periodic reports (at such intervals as the Secretary may require) that include all information that the Secretary, after consultation with other government officials, determines is necessary to evaluate the progress and success of the project for the purposes of ensuring positive results, assessing problems, and fostering improvements.

(2) **AVAILABILITY TO THE PUBLIC.**—Reports under paragraph (1), and any other documents relating to projects for which financial assistance is provided under this Act, shall be made available to the public.

SEC. 5. MARINE TURTLE CONSERVATION FUND.

(a) **ESTABLISHMENT.**—There is established in the Multinational Species Conservation Fund a separate account to be known as the "Marine Turtle Conservation Fund", consisting of—

(1) amounts transferred to the Secretary of the Treasury for deposit into the Fund under subsection (e);

(2) amounts appropriated to the Fund under section 6; and

(3) any interest earned on investment of amounts in the Fund under subsection (c).

(b) **EXPENDITURES FROM FUND.**—

(1) **IN GENERAL.**—Subject to paragraph (2), on request by the Secretary, the Secretary of the Treasury shall transfer from the Fund to the Secretary, without further appropriation, such amounts as the Secretary determines are necessary to carry out section 4.

(2) **ADMINISTRATIVE EXPENSES.**—Of the amounts in the account available for each fiscal year, the Secretary may expend not more than 3 percent, or up to \$80,000, whichever is greater, to pay the administrative expenses necessary to carry out this Act.

(c) **INVESTMENT OF AMOUNTS.**—

(1) **IN GENERAL.**—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(2) **ACQUISITION OF OBLIGATIONS.**—For the purpose of investments under paragraph (1), obligations may be acquired—

(A) on original issue at the issue price; or

(B) by purchase of outstanding obligations at the market price.

(3) **SALE OF OBLIGATIONS.**—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(4) **CREDITS TO FUND.**—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(d) **TRANSFERS OF AMOUNTS.**—

(1) **IN GENERAL.**—The amounts required to be transferred to the Fund under this section shall be transferred at least monthly from the general fund of the Treasury to the Fund

on the basis of estimates made by the Secretary of the Treasury.

(2) **ADJUSTMENTS.**—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(e) **ACCEPTANCE AND USE OF DONATIONS.**—The Secretary may accept and use donations to provide assistance under section 4. Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit in the Fund.

SEC. 6. ADVISORY GROUP.

(a) **IN GENERAL.**—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of marine turtles.

(b) **PUBLIC PARTICIPATION.**—

(1) **MEETINGS.**—The Advisory Group shall—

(A) ensure that each meeting of the advisory group is open to the public; and

(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

(2) **NOTICE.**—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

(3) **MINUTES.**—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

(c) **EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Fund \$5,000,000 for each of fiscal years 2005 through 2009.

AMENDING TITLE XXI OF THE SOCIAL SECURITY ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3288, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3288) to amend title XXI of the Social Security Act to make technical corrections with respect to the definition of qualifying State.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 3288) was read the third time and passed.

DECLARING EMPORIA, KANSAS, TO BE THE FOUNDING CITY OF THE VETERANS DAY HOLIDAY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Veterans Affairs Committee be discharged from further consideration of H. Con. Res. 159 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 159) declaring Emporia, Kansas, to be the founding city of the Veterans Day holiday and recognizing the contributions of Alvin J. King and Representative Ed Rees to the enactment into law of the observance of Veterans Day.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BROWNBACK. Mr. President, I wish to recognize the city of Emporia, KS, for its significant role in the establishment of Veterans Day. The people of Emporia take great pride in their city's contribution to the founding of this national holiday, and, while they may be modest, I would like to trumpet the work of my fellow Kansans.

As all of us in this Chamber are aware, Veterans Day was once Armistice Day, a day set apart by this Congress to commemorate the end of World War I, which our Nation once hoped would be "the war to end all wars." Just a few years after Armistice Day was made a legal holiday, our Nation was engulfed in the Second World War. Shortly thereafter our soldiers were fighting bravely to repel the communist advance on the Koran Peninsula. These two conflicts added millions to the number of war veterans in the United States. Certainly, it seemed appropriate that these new veterans, like the veterans of World War I, should be honored for their service to our country.

The man who initiated the effort to honor all of these veterans was a Kansan. Congressman Ed Rees, a native of Emporia, acted on the call of his constituents, particularly that of his fellow Emporian, Alvin J. King, to introduce legislation to officially change Armistice Day to Veterans Day. In 1954, another Kansan, President Dwight D. Eisenhower, signed this legislation into law.

Since 1954, Veterans Day has been a day set apart to honor the valor and sacrifice of all America's veterans. At all times our Nation relies on the courage and selflessness of the members of our Armed Forces, so I am thankful that Congressman Ed Rees, at the behest of his fellow Emporians, worked so diligently to establish one special day when all our veterans are recognized for their faithful service to the United States. I thank the people of Emporia, and I thank the millions of war veterans who inspired them.

Mr. ROBERTS. Mr. President, this resolution declares Emporia, KS, to be the founding city of Veterans Day. In addition, the resolution recognizes the contributions of Alvin J. King and Representative Ed Rees from Emporia, KS, to the enactment into law of the observance of Veterans Day.

On October 8, 1954, President Dwight D. Eisenhower, also a Kansan, signed

into law a bill changing Armistice Day to Veterans Day. President Eisenhower stated, "On that day let us solemnly remember the sacrifices of all those who fought so valiantly, on the seas, in the air, and on foreign shores, to preserve our heritage of freedom, and let us reconsecrate ourselves to the task of promoting an enduring peace so that their efforts shall not have been in vain."

With the soon-to-be return of our service men and women from the war in Iraq, Veterans Day takes on a new meaning. These men and women who serve in Iraq today, join the other millions that have come before them. I am proud that President Eisenhower, Representative Rees, and Alvin King, all from the great state of Kansas, took the idea for the celebration of Veterans Day from conception to fruition.

Emporia, KS, organized and celebrated Veterans Day in 1953, one year before the rest of the United States. Alvin J. King, the man behind the idea, was a shoe cobbler in Emporia. Mr. KING befriended many veterans, thus realizing that we needed a national holiday to commemorate all veterans of all wars, not just those of World War I. With support from the community of Emporia, Mr. KING took his idea to Washington. There, he found a close ally in Representative Ed Rees, who introduced a bill to change the holiday. Mr. Rees said, "The United States has now been involved in many great military efforts, and each has produced its number of veterans. We all realize that it would not be feasible to establish a national holiday to commemorate the closing of each war. This legislation does not establish a new holiday. Rather it expands an existing holiday so that we may honor all veterans at the same time."

On November 11 of each year, we pay tribute to our veterans. Americans, as in all wars have rallied behind the men and women who went off to defend the American way of life. And, as some of those soldiers returned, we embraced and thanked them for their sacrifice. And for those that did not come home we remembered them in somber ceremonies, silent prayers, and grieving moments. On November 11 we pay reverence to anyone that has worn the uniform. We should, also, recognize the shoe cobbler from Emporia, who had a vision for a national holiday; a representative, who listened to his hometown; and a President, who a veteran himself, saw the completion of this idea.

I urge my colleagues to pass this resolution.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 159) was agreed to.

The preamble was agreed to.

VETERANS' BENEFITS ENHANCEMENTS ACT OF 2003

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar item No. 316, S. 1132.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1132) to amend title 38, United States Code, to improve and enhance certain benefits for survivors of veterans, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1132

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

SECTION 1. SHORT TITLE.

[This Act may be cited as the "Veterans' Survivors Benefits Enhancements Act of 2003".

ISEC. 2. INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

[(a) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3532 of title 38, United States Code, is amended—

[(1) in subsection (a)—

[(A) in paragraph (1), by striking "at the monthly rate of" and all that follows and inserting "at the monthly rate of \$985 for full-time, \$740 for three-quarter-time, or \$492 for half-time pursuit."; and

[(B) in paragraph (2), by striking "at the rate of" and all that follows and inserting "at the rate of the lesser of—

["(A) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced non-veterans enrolled in the same program to pay; or

["(B) \$985 per month for a full-time course.";

[(2) in subsection (b), by striking "\$670" and inserting "\$985"; and

[(3) in subsection (c)(2), by striking "shall be" and all that follows and inserting "shall be \$795 for full-time, \$596 for three-quarter-time, or \$398 for half-time pursuit.".

[(b) CORRESPONDENCE COURSES.—Section 3534(b) of that title is amended by striking "\$670" and inserting "\$985".

[(c) SPECIAL RESTORATIVE TRAINING.—Section 3542(a) of that title is amended—

[(1) by striking "\$670" and inserting "\$985"; and

[(2) by striking "\$210" each place it appears and inserting "\$307".

[(d) APPRENTICESHIP TRAINING.—Section 3687(b)(2) of that title is amended by striking "shall be \$488 for the first six months" and all that follows and inserting "shall be \$717 for the first six months, \$536 for the second six months, \$356 for the third six months, and \$179 for the fourth and any succeeding six-month period of training.".

[(e) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect on October 1, 2003, and shall apply with respect to

educational assistance allowances payable under chapter 35 and section 3687(b)(2) of title 38, United States Code, for months beginning on or after that date.

[(2) No adjustment in rates of monthly training allowances shall be made under section 3687(d) of title 38, United States Code, for fiscal year 2004.

ISEC. 3. MODIFICATION OF DURATION OF EDUCATIONAL ASSISTANCE.

[Section 3511(a)(1) of title 38, United States Code, is amended by striking "45 months" and all that follows and inserting "45 months, or 36 months in the case of a person who first files a claim for educational assistance under this chapter after the date of the enactment of the Veterans' Survivors Benefits Enhancements Act of 2003, or the equivalent thereof in part-time training.".

ISEC. 4. ADDITIONAL DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES WITH DEPENDENT CHILDREN.

[(a) ADDITIONAL DEPENDENCY AND INDEMNITY COMPENSATION.—Section 1311 of title 38, United States Code, is amended by adding at the end the following new subsection:

["(e)(1) Subject to paragraphs (2) and (3), if there is a surviving spouse with one or more children below the age of eighteen, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by \$250, regardless of the number of such children.

["(2) Dependency and indemnity compensation shall be increased for a month under this subsection only for months occurring during the five-year period beginning on the date of death of the veteran on which such dependency and indemnity compensation is based.

["(3) The increase in dependency and indemnity compensation of a surviving spouse under this subsection shall cease beginning with the first month commencing after the month in which all children of the surviving spouse have attained the age of eighteen.

["(4) Dependency and indemnity compensation under this subsection is in addition to any other dependency and indemnity compensation payable by law.".

[(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

ISEC. 5. ELIGIBILITY OF SURVIVING SPOUSES WHO REMARRY FOR BURIAL IN NATIONAL CEMETERIES.

[(a) IN GENERAL.—Section 2402(5) of title 38, United States Code, is amended by striking "(which for purposes of this chapter includes an unremarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce)" and inserting "(which for purposes of this chapter includes a surviving spouse who had a subsequent remarriage)".

[(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to deaths occurring on or after January 1, 2000.

ISEC. 6. BENEFIT FOR CHILDREN WITH SPINA BIFIDA OF VETERANS OF CERTAIN SERVICE IN KOREA.

[(a) IN GENERAL.—Chapter 18 of title 38, United States Code, is amended—

[(1) by redesignating subchapter III, and sections 1821, 1822, 1823, and 1824, as subchapter IV, and sections 1831, 1832, 1833, and 1834, respectively; and

[(2) by inserting after subchapter II the following new subchapter III:

["SUBCHAPTER III—CHILDREN OF CERTAIN KOREA SERVICE VETERANS BORN WITH SPINA BIFIDA

["§1821. Benefits for children of certain Korea service veterans born with spina bifida

["(a) BENEFITS AUTHORIZED.—The Secretary may provide to any child of a veteran

of covered service in Korea who is suffering from spina bifida the health care, vocational training and rehabilitation, and monetary allowance required to be paid to a child of a Vietnam veteran who is suffering from spina bifida under subchapter I of this chapter as if such child of a veteran of covered service in Korea were a child of a Vietnam veteran who is suffering from spina bifida under such subchapter I.

["(b) SPINA BIFIDA CONDITIONS COVERED.—This section applies with respect to all forms and manifestations of spina bifida, except spina bifida occulta.

["(c) VETERAN OF COVERED SERVICE IN KOREA.—For purposes of this section, a veteran of covered service in Korea is any individual, without regard to the characterization of that individual's service, who—

["(1) served in the active military, naval, or air service in or near the Korean demilitarized zone (DMZ), as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on January 1, 1967, and ending on December 31, 1969; and

["(2) is determined by the Secretary, in consultation with the Secretary of Defense, to have been exposed to a herbicide agent during such service in or near the Korean demilitarized zone.

["(d) HERBICIDE AGENT.—For purposes of this section, the term 'herbicide agent' means a chemical in a herbicide used in support of United States and allied military operations in or near the Korean demilitarized zone, as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on January 1, 1967, and ending on December 31, 1969.'.

["(b) CHILD DEFINED.—Section 1831 of that title, as redesignated by subsection (a), is further amended by striking paragraph (1) and inserting the following new paragraph (1):

["(1) The term 'child' means the following:

["(A) For purposes of subchapters I and II of this chapter, an individual, regardless of age or marital status, who—

["(i) is the natural child of a Vietnam veteran; and

["(ii) was conceived after the date on which that veteran first entered the Republic of Vietnam during the Vietnam era.

["(B) For purposes of subchapter III of this chapter, an individual, regardless of age or marital status, who—

["(i) is the natural child of a veteran of covered service in Korea (as determined for purposes of section 1821 of this title); and

["(ii) was conceived after the date on which that veteran first entered service described in subsection (c) of that section.'.

["(c) NONDUPLICATION OF BENEFITS.—Section 1834(a) of that title, as redesignated by subsection (a), is further amended by adding at the end the following new sentence: "In the case of a child eligible for benefits under subchapter I or II of this chapter who is also eligible for benefits under subchapter III of this chapter, a monetary allowance shall be paid under the subchapter of this chapter elected by the child.'.

["(d) CONFORMING AMENDMENT.—(1) Section 1811(1)(A) of that title is amended by striking "section 1821(1)" and inserting "section 1831(1)".

["(2) The heading for chapter 18 of that title is amended to read as follows:

"CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND CERTAIN OTHER VETERANS".

["(e) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 18 of that title is amended by striking the items relating to subchapter III and inserting the following new items:

["SUBCHAPTER III—CHILDREN OF CERTAIN KOREA SERVICE VETERANS BORN WITH SPINA BIFIDA

["1821. Benefits for children of certain Korea service veterans born with spina bifida.

["SUBCHAPTER IV—GENERAL PROVISIONS

["1831. Definitions.

["1832. Applicability of certain administrative provisions.

["1833. Treatment of receipt of monetary allowance and other benefits.

["1834. Nonduplication of benefits.'.

["(2) The table of chapters at the beginning of title 38, United States Code, and at the beginning of part II of such title, are each amended by striking the item relating to chapter 18 and inserting the following new item:

["18. Chapter 18—Benefits for Children of Vietnam Veterans and Certain Other Veterans 1802".]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Veterans' Benefits Enhancements Act of 2003".

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

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

TITLE I—SURVIVOR BENEFITS

Sec. 101. Benefits for children with spina bifida of veterans of certain service in Korea.

Sec. 102. Alternative beneficiaries for National Service Life Insurance and United States Government Life Insurance.

Sec. 103. Applicability to certain members of the National Guard of authority for extension of eligibility for survivors' and dependents' educational assistance.

Sec. 104. Increase in rates of survivors' and dependents' educational assistance.

Sec. 105. Repeal of two-year limitation on payment of accrued benefits at death.

TITLE II—BURIAL BENEFITS

Sec. 201. Burial plot allowance.

Sec. 202. Eligibility of surviving spouses who remarry for burial in national cemeteries.

Sec. 203. Permanent authority for State cemetery grants program.

Sec. 204. Provision of markers for privately marked graves.

TITLE III—OTHER MATTERS

Subtitle A—Miscellaneous Benefits Matters

Sec. 301. Two-year extension of round-down requirement for compensation cost-of-living adjustments.

Sec. 302. Presumptions of service-connection relating to diseases and disabilities of former prisoners of war.

Sec. 303. Repeal of requirement for minimum period of internment of prisoners of war for dental care.

Sec. 304. Rounding down of certain cost-of-living adjustments on education assistance.

Sec. 305. Termination of education loan program.

Sec. 306. Termination of authority to guarantee loans to purchase manufactured homes and lots.

Sec. 307. Increase in loan fee for subsequent loans closed before October 1, 2011.

Sec. 308. Reinstatement of minimum requirements for sale of vendee loans.

Sec. 309. Operation of Native American Veteran Housing Loan Program.

Sec. 310. Time limitations on receipt of claim information pursuant to requests of Department of Veterans Affairs.

Sec. 311. Clarification of applicability of prohibition on assignment of veterans benefits to agreements requiring payment of future receipt of benefits.

Sec. 312. Three-year extension of income verification authority.

Sec. 313. Forfeiture of benefits for subversive activities.

Sec. 314. Clarification of notice of disagreement for appellate review of Department of Veterans Affairs activities.

Subtitle B—Benefits for Philippine Veterans

Sec. 321. Rate of payment of benefits for certain Filipino veterans and their survivors residing in the United States.

Sec. 322. Burial benefits for new Philippine Scouts residing in the United States.

Sec. 323. Extension of authority to operate regional office in the Philippines.

Subtitle C—Exposure to Hazardous Substances

Sec. 331. Radiation Dose Reconstruction Program of Department of Defense.

Sec. 332. Study on disposition of Air Force Health Study.

Sec. 333. Funding of Medical Follow-Up Agency of Institute of Medicine of National Academy of Sciences for epidemiological research on members of the Armed Forces and veterans.

Subtitle D—Other Matters

Sec. 341. Four-year extension of Advisory Committee on Minority Veterans.

Sec. 342. Veterans' Advisory Committee on Education.

Sec. 343. Temporary authority for performance of medical disabilities examinations by contract physicians.

Sec. 344. Technical amendment.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—SURVIVOR BENEFITS

SEC. 101. BENEFITS FOR CHILDREN WITH SPINA BIFIDA OF VETERANS OF CERTAIN SERVICE IN KOREA.

(a) *IN GENERAL.*—Chapter 18 is amended—

(1) by redesignating subchapter III, and sections 1821, 1822, 1823, and 1824, as subchapter IV, and sections 1831, 1832, 1833, and 1834, respectively; and

(2) by inserting after subchapter II the following new subchapter III:

"SUBCHAPTER III—CHILDREN OF CERTAIN KOREA SERVICE VETERANS BORN WITH SPINA BIFIDA

"§ 1821. Benefits for children of certain Korea service veterans born with spina bifida

"(a) BENEFITS AUTHORIZED.—The Secretary may provide to any child of a veteran of covered service in Korea who is suffering from spina bifida the health care, vocational training and rehabilitation, and monetary allowance required to be paid to a child of a Vietnam veteran who is suffering from spina bifida under subchapter I of this chapter as if such child of a veteran of covered service in Korea were a child of a Vietnam veteran who is suffering from spina bifida under such subchapter.

"(b) SPINA BIFIDA CONDITIONS COVERED.—This section applies with respect to all forms and manifestations of spina bifida, except spina bifida occulta.

"(c) VETERAN OF COVERED SERVICE IN KOREA.—For purposes of this section, a veteran

of covered service in Korea is any individual, without regard to the characterization of that individual's service, who—

“(1) served in the active military, naval, or air service in or near the Korean demilitarized zone (DMZ), as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on January 1, 1967, and ending on December 31, 1969; and

“(2) is determined by the Secretary, in consultation with the Secretary of Defense, to have been exposed to a herbicide agent during such service in or near the Korean demilitarized zone.

“(d) HERBICIDE AGENT.—For purposes of this section, the term ‘herbicide agent’ means a chemical in a herbicide used in support of United States and allied military operations in or near the Korean demilitarized zone, as determined by the Secretary in consultation with the Secretary of Defense, during the period beginning on January 1, 1967, and ending on December 31, 1969.”

(b) CHILD DEFINED.—Section 1831, as redesignated by subsection (a) of this section, is further amended by striking paragraph (1) and inserting the following new paragraph (1):

“(1) The term ‘child’ means the following: “(A) For purposes of subchapters I and II of this chapter, an individual, regardless of age or marital status, who—

“(i) is the natural child of a Vietnam veteran; and

“(ii) was conceived after the date on which that veteran first entered the Republic of Vietnam during the Vietnam era.

“(B) For purposes of subchapter III of this chapter, an individual, regardless of age or marital status, who—

“(i) is the natural child of a veteran of covered service in Korea (as determined for purposes of section 1821 of this title); and

“(ii) was conceived after the date on which that veteran first entered service described in subsection (c) of that section.”

(c) NONDUPLICATION OF BENEFITS.—Section 1834(a), as redesignated by subsection (a) of this section, is further amended by adding at the end the following new sentence: ‘In the case of a child eligible for benefits under subchapter I or II of this chapter who is also eligible for benefits under subchapter III of this chapter, a monetary allowance shall be paid under the subchapter of this chapter elected by the child.’

(d) CONFORMING AMENDMENTS.—(1) Section 1811(1)(A) is amended by striking ‘section 1821(1)’ and inserting ‘section 1831(1)’.

(2) The heading for chapter 18 is amended to read as follows:

“CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND CERTAIN OTHER VETERANS”.

(e) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 18 is amended by striking the items relating to subchapter III and inserting the following new items:

“SUBCHAPTER III—CHILDREN OF CERTAIN KOREA SERVICE VETERANS BORN WITH SPINA BIFIDA

“1821. Benefits for children of certain Korea service veterans born with spina bifida.

“SUBCHAPTER IV—GENERAL PROVISIONS

“1831. Definitions.

“1832. Applicability of certain administrative provisions.

“1833. Treatment of receipt of monetary allowance and other benefits.

“1834. Nonduplication of benefits.”

(2) The table of chapters at the beginning of title 38, United States Code, and at the beginning of part II, are each amended by striking the item relating to chapter 18 and inserting the following new item:

“18. Chapter 18—Benefits for Children of Vietnam Veterans and Certain Other Veterans 1802”.

SEC. 102. ALTERNATIVE BENEFICIARIES FOR NATIONAL SERVICE LIFE INSURANCE AND UNITED STATES GOVERNMENT LIFE INSURANCE.

(a) NATIONAL SERVICE LIFE INSURANCE.—Section 1917 is amended by adding at the end the following new subsection:

“(f)(1) Following the death of the insured and in a case not covered by subsection (d)—

“(A) if the first beneficiary otherwise entitled to payment of the insurance does not make a claim for such payment within two years after the death of the insured, payment may be made to another beneficiary designated by the insured, in the order of precedence as designated by the insured, as if the first beneficiary had predeceased the insured; and

“(B) if, within four years after the death of the insured, no claim has been filed by a person designated by the insured as a beneficiary and the Secretary has not received any notice in writing that any such claim will be made, payment may (notwithstanding any other provision of law) be made to such person as may in the judgment of the Secretary be equitably entitled thereto.

“(2) Payment of insurance under paragraph (1) shall be a bar to recovery by any other person.”

(b) UNITED STATES GOVERNMENT LIFE INSURANCE.—Section 1952 is amended by adding at the end the following new subsection:

“(c)(1) Following the death of the insured and in a case not covered by section 1950 of this title—

“(A) if the first beneficiary otherwise entitled to payment of the insurance does not make a claim for such payment within two years after the death of the insured, payment may be made to another beneficiary designated by the insured, in the order of precedence as designated by the insured, as if the first beneficiary had predeceased the insured; and

“(B) if, within four years after the death of the insured, no claim has been filed by a person designated by the insured as a beneficiary and the Secretary has not received any notice in writing that any such claim will be made, payment may (notwithstanding any other provision of law) be made to such person as may in the judgment of the Secretary be equitably entitled thereto.

“(2) Payment of insurance under paragraph (1) shall be a bar to recovery by any other person.”

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2004.

(d) TRANSITION PROVISION.—In the case of a person insured under subchapter I or II of chapter 19 of title 38, United States Code, who dies before the effective date of the amendments made by subsections (a) and (b), as specified by subsection (c), the two-year and four-year periods specified in subsection (f)(1) of section 1917 of title 38, United States Code, as added by subsection (a), and subsection (c)(1) of section 1952 of such title, as added by subsection (b), as applicable, shall for purposes of the applicable subsection be treated as being the two-year and four-year periods, respectively, beginning on the effective date of such amendments, as so specified.

SEC. 103. APPLICABILITY TO CERTAIN MEMBERS OF THE NATIONAL GUARD OF AUTHORITY FOR EXTENSION OF ELIGIBILITY FOR SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Section 3512(h) is amended by inserting “or is involuntarily ordered to full-time National Guard duty under section 502(f) of title 32,” after “title 10,”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 11, 2001.

SEC. 104. INCREASE IN RATES OF SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.

(a) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE.—Section 3532 is amended—

(1) in subsection (a)— (A) in paragraph (1), by striking “at the monthly rate of” and all that follows and inserting “at the monthly rate of \$788 for full-time, \$592 for three-quarter-time, or \$394 for half-time pursuit.”; and

(B) in paragraph (2), by striking “at the rate of” and all that follows and inserting “at the rate of the lesser of—

“(A) the established charges for tuition and fees that the educational institution involved requires similarly circumstanced nonveterans enrolled in the same program to pay; or

“(B) \$788 per month for a full-time course.”; (2) in subsection (b), by striking “\$670” and inserting “\$788”; and

(3) in subsection (c)(2), by striking “shall be” and all that follows and inserting “shall be \$636 for full-time, \$477 for three-quarter-time, or \$319 for half-time pursuit.”

(b) CORRESPONDENCE COURSES.—Section 3534(b) is amended by striking “\$670” and inserting “\$788”.

(c) SPECIAL RESTORATIVE TRAINING.—Section 3542(a) is amended—

(1) by striking “\$670” and inserting “\$788”; and

(2) by striking “\$210” each place it appears and inserting “\$247”.

(d) APPRENTICESHIP TRAINING.—Section 3687(b)(2) is amended by striking “shall be \$488 for the first six months” and all that follows and inserting “shall be \$574 for the first six months, \$429 for the second six months, \$285 for the third six months, and \$144 for the fourth and any succeeding six-month period of training.”

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2004, and shall apply with respect to educational assistance allowances payable under chapter 35 and section 3687(b)(2) of title 38, United States Code, for months beginning on or after that date.

SEC. 105. REPEAL OF TWO-YEAR LIMITATION ON PAYMENT OF ACCRUED BENEFITS AT DEATH.

(a) REPEAL.—Section 5121(a) is amended—

(1) in the matter preceding paragraph (1), by striking “for a period not to exceed two years”; (2) in paragraph (4), by striking “and” at the end;

(3) by redesignating paragraph (5) as paragraph (6); and (4) by inserting after paragraph (4) the following new paragraph (5):

“(5) Upon the death of a child claiming benefits under chapter 18 of this title, to the surviving parents; and”.

(b) TECHNICAL AMENDMENT.—That section is further amended in the matter preceding paragraph (1) by striking “or decisions,” and inserting “or decisions”.

TITLE II—BURIAL BENEFITS

SEC. 201. BURIAL PLOT ALLOWANCE.

(a) IN GENERAL.—Section 2303(b) is amended— (1) in the matter preceding paragraph (1), by striking “a burial allowance under such section 2302, or under such subsection, who was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or who is a veteran of any war” and inserting “burial in a national cemetery under section 2402 of this title”; and

(2) in paragraph (2), by striking “(other than a veteran whose eligibility for benefits under this subsection is based on being a veteran of any war)” and inserting “is eligible for a burial allowance under section 2302 of this title or under subsection (a) of this section, or was discharged from the active military, naval, or air

service for a disability incurred or aggravated in line of duty, and such veteran”.

(b) CONFORMING AMENDMENT.—Section 2307 is amended in the last sentence by striking “and (b)” and inserting “and (b)(2)”.

SEC. 202. ELIGIBILITY OF SURVIVING SPOUSES WHO REMARRY FOR BURIAL IN NATIONAL CEMETERIES.

(a) IN GENERAL.—Section 2402(5) is amended by striking “(which for purposes of this chapter includes an unmarried surviving spouse who had a subsequent remarriage which was terminated by death or divorce)” and inserting “(which for purposes of this chapter includes a surviving spouse who had a subsequent remarriage)”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

SEC. 203. PERMANENT AUTHORITY FOR STATE CEMETERY GRANTS PROGRAM.

(a) PERMANENT AUTHORITY.—Subsection (a) of section 2408 is amended—

(1) by striking “(1)”; and

(2) by striking paragraph (2).

(b) CONFORMING AMENDMENT.—Subsection (e) of such section is amended by striking “Sums appropriated under subsection (a) of this section” and inserting “Amounts appropriated to carry out this section”.

SEC. 204. PROVISION OF MARKERS FOR PRIVATELY MARKED GRAVES.

(a) IN GENERAL.—Section 502(d) of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107-103; 38 U.S.C. 2306 note) is amended by striking “September 11, 2001” and inserting “November 1, 1990”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 502 of the Veterans Education and Benefits Expansion Act of 2001.

TITLE III—OTHER MATTERS

Subtitle A—Miscellaneous Benefits Matters

SEC. 301. TWO-YEAR EXTENSION OF ROUND-DOWN REQUIREMENT FOR COMPENSATION COST-OF-LIVING ADJUSTMENTS.

Sections 1104(a) and 1303(a) are each amended by striking “2011” and inserting “2013”.

SEC. 302. PRESUMPTIONS OF SERVICE-CONNECTION RELATING TO DISEASES AND DISABILITIES OF FORMER PRISONERS OF WAR.

Subsection (b) of section 1112 is amended to read as follows:

“(b)(1) For the purposes of section 1110 of this title and subject to the provisions of section 1113 of this title, in the case of a veteran who is a former prisoner of war—

“(A) a disease specified in paragraph (2) which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service; and

“(B) if the veteran was detained or interned as a prisoner of war for not less than thirty days, a disease specified in paragraph (3) which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

“(2) The diseases specified in this paragraph are the following:

“(A) Psychosis.

“(B) Any of the anxiety states.

“(C) Dysthymic disorder (or depressive neurosis).

“(D) Organic residuals of frostbite, if the Secretary determines that the veteran was detained or interned in climatic conditions consistent with the occurrence of frostbite.

“(E) Post-traumatic osteoarthritis.

“(3) The diseases specified in this paragraph are the following:

“(A) Avitaminosis.

“(B) Beriberi (including beriberi heart disease).

“(C) Chronic dysentery.

“(D) Helminthiasis.

“(E) Malnutrition (including optic atrophy associated with malnutrition).

“(F) Pellagra.

“(G) Any other nutritional deficiency.

“(H) Cirrhosis of the liver.

“(I) Peripheral neuropathy except where directly related to infectious causes.

“(J) Irritable bowel syndrome.

“(K) Peptic ulcer disease.”.

SEC. 303. REPEAL OF REQUIREMENT FOR MINIMUM PERIOD OF INTERNMENT OF PRISONERS OF WAR FOR DENTAL CARE.

Section 1712(a)(1)(F) is amended by striking “and who was detained or interned for a period of not less than 90 days”.

SEC. 304. ROUNDING DOWN OF CERTAIN COST-OF-LIVING ADJUSTMENTS ON EDUCATION ASSISTANCE.

(a) BASIC EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL.—Section 3015(h) is amended by inserting “down” after “rounded”.

(b) SURVIVORS’ AND DEPENDENTS’ EDUCATIONAL ASSISTANCE.—Section 3564 is amended by inserting “down” after “rounded”.

SEC. 305. TERMINATION OF EDUCATION LOAN PROGRAM.

(a) TERMINATION OF EDUCATION LOAN PROGRAM.—No loans shall be made under subchapter III of chapter 36 of title 38, United States Code, after the date of the enactment of this Act.

(b) DISCHARGE OF LIABILITIES.—Effective as of the date of the transfer of funds under subsection (c)—

(1) any liability on an education loan under subchapter III of chapter 36 of title 38, United States Code, that is outstanding as of such date shall be deemed discharged; and

(2) the right of the United States to recover an overpayment declared under section 3698(e)(1) of such title that is outstanding as of such date shall be deemed waived.

(c) TERMINATION OF LOAN FUND.—(1) Effective as of the day before the date of the repeal under this section of subchapter III of chapter 36 of title 38, United States Code, all monies in the revolving fund of the Treasury known as the “Department of Veterans Affairs Education Loan Fund” shall be transferred to the Department of Veterans Affairs Readjustment Benefits Account, and the revolving fund shall be closed.

(2) Any monies transferred to the Department of Veterans Affairs Readjustment Benefits Account under paragraph (1) shall be merged with amounts in that account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in that account.

(d) USE OF ENTITLEMENT TO VETERANS EDUCATIONAL ASSISTANCE FOR EDUCATION LOAN PROGRAM.—Section 3462(a) is amended—

(1) by striking paragraph (2); and

(2) by redesignating paragraph (4) as paragraph (2).

(e) REPEAL OF EDUCATION LOAN PROGRAM.—Subchapter III of chapter 36 is repealed.

(f) CONFORMING AMENDMENTS.—(1) Section 3485(e)(1) is amended by striking “(other than an education loan under subchapter III)”.

(2) Section 3512 is amended by striking subsection (f).

(g) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 36 is amended by striking the items relating to subchapter III.

(h) EFFECTIVE DATES.—(1) The amendments made by subsection (d) shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (e), (f), and (g) shall take effect 90 days after the date of the enactment of this Act.

SEC. 306. TERMINATION OF AUTHORITY TO GUARANTEE LOANS TO PURCHASE MANUFACTURED HOMES AND LOTS.

Section 3712 is amended by adding at the end the following new subsection:

“(m) The authority of the Secretary to guarantee loans under this section shall expire on December 31, 2003.”.

SEC. 307. INCREASE IN LOAN FEE FOR SUBSEQUENT LOANS CLOSED BEFORE OCTOBER 1, 2011.

(a) INCREASE IN LOAN FEE.—The loan fee table in section 3729(b)(2) is amended in subparagraph (B)(i), relating to subsequent loans described in section 3701(a) of title 38, United States Code, to purchase or construct a dwelling with 0-down, or any other subsequent loan described in such section (closed on or before October 1, 2011), by striking “3.00” both places it appears and inserting “3.50”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2004.

SEC. 308. REINSTATEMENT OF MINIMUM REQUIREMENTS FOR SALE OF VENDEE LOANS.

(a) IN GENERAL.—Section 3733(a) is amended—

(1) by striking paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively; and

(2) in subparagraph (B)(i) of paragraph (3), as so redesignated, by striking “paragraph (5) of this subsection” and inserting “paragraph (4)”.

(b) INCREASE IN MAXIMUM PERCENTAGE.—Section 3733(a)(1) is amended—

(1) by striking “65 percent” in the first sentence and inserting “85 percent”; and

(2) by striking the second sentence.

(c) STYLISTIC AMENDMENTS.—Section 3733 is further amended by striking “paragraph (1) of this subsection” each place it appears and inserting “paragraph (1)”.

SEC. 309. OPERATION OF NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM.

(a) RESTORATION FOR FISCAL YEAR 2003 TO FISCAL YEAR 2002 LEVEL.—In carrying out the pilot program provided by subchapter V of chapter 37 of title 38, United States Code, under which the Secretary of Veterans Affairs is authorized to make direct housing loans to Native American veterans, the Secretary shall during fiscal year 2003 carry out that program without regard to the proviso under the heading “Native American Veteran Housing Loan Program Account” in title I of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2003 (division K of Public Law 108-7; 117 Stat. 476), and such proviso shall be treated as being of no force or effect.

(b) SAVINGS PROVISION.—Any action taken by the Secretary of Veterans Affairs before the enactment of this Act that is inconsistent with the proviso referred to in subsection (a) is hereby ratified with respect to such inconsistency.

SEC. 310. TIME LIMITATIONS ON RECEIPT OF CLAIM INFORMATION PURSUANT TO REQUESTS OF DEPARTMENT OF VETERANS AFFAIRS.

(a) INFORMATION TO COMPLETE CLAIMS APPLICATIONS.—Section 5102 is amended by adding at the end the following new subsection:

“(c) TIME LIMITATION.—(1) If information that a claimant and the claimant’s representative, if any, are notified under subsection (b) is necessary to complete an application is not received by the Secretary within one year from the date of such notification, no benefit may be paid or furnished by reason of the claimant’s application.

“(2) This subsection shall not apply to any application or claim for Government life insurance benefits.”.

(b) CONSTRUCTION OF LIMITATION ON INFORMATION TO SUBSTANTIATE CLAIMS.—Section 5103(b) is amended by adding at the end the following new paragraph:

“(3) The limitation in paragraph (1) shall not be construed to prohibit the Secretary from making a decision on a claim before the expiration of the period referred to in that subsection.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if enacted on November 9, 2000, immediately after the enactment of the Veterans Claims Assistance Act of 2000 (Public Law 106-475; 114 Stat. 2096).

SEC. 311. CLARIFICATION OF APPLICABILITY OF PROHIBITION ON ASSIGNMENT OF VETERANS BENEFITS TO AGREEMENTS REQUIRING PAYMENT OF FUTURE RECEIPT OF BENEFITS.

(a) **IN GENERAL.**—Section 5301(a) is amended—

(1) by inserting “(1)” after “(a)”; and
(2) by designating the last sentence as paragraph (2) and indenting such paragraph, as so designated, two ems from the left margin; and

(3) by adding at the end the following new paragraph:

“(3)(A) This subsection is intended to clarify that, in any case where a beneficiary entitled to compensation, pension, or dependency and indemnity compensation enters into an agreement with another person under which agreement such other person acquires for consideration the right to receive payment of such compensation, pension, or dependency and indemnity compensation, as the case may be, whether by payment from the beneficiary to such other person, deposit into an account from which such other person may make withdrawals, or otherwise, such agreement shall be deemed to be an assignment and is prohibited.

“(B) Notwithstanding subparagraph (A), nothing in this subsection is intended to prohibit a loan to a beneficiary under the terms of which the beneficiary may use some of the benefits to repay the loan, so long as each of the periodic payments made to repay the loan is separately and voluntarily executed by the beneficiary at the time such periodic payment is made.

“(C) Any agreement or arrangement for collateral for security for an agreement that is prohibited under subparagraph (A) is also prohibited and is void ab initio.”.

(b) **EFFECTIVE DATE.**—Paragraph (3) of section 5301(a) of title 38, United States Code (as added by subsection (a) of this section), shall apply with respect to any agreement or arrangement described in that paragraph that is entered into on or after the date of the enactment of this Act.

SEC. 312. THREE-YEAR EXTENSION OF INCOME VERIFICATION AUTHORITY.

(a) **IN GENERAL.**—Section 5317(g) is amended by striking “September 30, 2008” and inserting “September 30, 2011”.

(b) **CONFORMING AMENDMENT.**—Section 6103(l)(7)(D) of the Internal Revenue Code of 1986 is amended by striking “September 30, 2008” and inserting “September 30, 2011”.

SEC. 313. FORFEITURE OF BENEFITS FOR SUBVERSIVE ACTIVITIES.

(a) **ADDITION OF CERTAIN OFFENSES.**—Section 6105(b)(2) is amended by striking “sections 792, 793, 794, 798, 2381, 2382, 2383, 2384, 2385, 2387, 2388, 2389, 2390, and chapter 105 of title 18” and inserting “sections 175, 229, 792, 793, 794, 798, 831, 1091, 2332a, 2332b, 2381, 2382, 2383, 2384, 2385, 2387, 2388, 2389, 2390, and chapter 105 of title 18”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply to claims filed after the date of the enactment of this Act.

SEC. 314. CLARIFICATION OF NOTICE OF DISAGREEMENT FOR APPELLATE REVIEW OF DEPARTMENT OF VETERANS AFFAIRS ACTIVITIES.

(a) **CLARIFICATION.**—Section 7105(b) is amended by adding at the end the following new paragraph:

“(3) A document that meets the requirements of the second sentence of paragraph (1) and the first sentence of paragraph (2) shall be recognized as a notice of disagreement for purposes of

this section unless the Secretary finds that the claimant has disavowed a desire for appellate review.”.

(b) **EFFECTIVE DATE.**—(1) Except as specifically provided otherwise, paragraph (3) of section 7105(b) of title 38, United States Code (as added by subsection (a) of this section), shall apply to any document—

(A) filed under section 7105 of such title on or after the date of the enactment of this Act; or

(B) filed under section 7105 of such title before the date of the enactment of this Act and not treated by the Secretary of Veterans Affairs as a notice of disagreement pursuant to section 20.201 of title 38, Code of Federal Regulations, as of that date.

(2) In the case of a document described in paragraph (3) of this subsection, the Secretary shall, upon the request of the claimant or the Secretary's own motion, order the document treated as a notice of disagreement under section 7105 of such title as if the document had not been rejected by the Secretary as a notice of disagreement pursuant to section 20.201 of title 38, Code of Federal Regulations.

(3) A document described in this paragraph is a document that—

(A) was filed as a notice of disagreement under section 7105 of such title during the period beginning on March 15, 2002, and ending on the date of the enactment of this Act; and

(B) was rejected by the Secretary as a notice of disagreement pursuant to section 20.201 of title 38, Code of Federal Regulations.

(4) A document may not be treated as a notice of disagreement under paragraph (2) unless a request for such treatment is filed by the claimant, or a motion is made by the Secretary, not later than one year after the date of the enactment of this Act.

Subtitle B—Benefits for Philippine Veterans

SEC. 321. RATE OF PAYMENT OF BENEFITS FOR CERTAIN FILIPINO VETERANS AND THEIR SURVIVORS RESIDING IN THE UNITED STATES.

(a) **RATE OF PAYMENT.**—Section 107 is amended—

(1) in the second sentence of subsection (b), by striking “Payments” and inserting “Except as provided in subsection (c), payments”; and

(2) in subsection (c)—
(A) by inserting “and subchapter II of chapter 13 (except section 1312(a)) of this title” after “chapter 11 of this title”;

(B) by striking “in subsection (a)” and inserting “in subsection (a) or (b)”; and

(C) by striking “of subsection (a)” and inserting “of the applicable subsection”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to benefits paid for months beginning after that date.

SEC. 322. BURIAL BENEFITS FOR NEW PHILIPPINE SCOUTS RESIDING IN THE UNITED STATES.

(a) **BENEFIT ELIGIBILITY.**—Section 107 is amended—

(1) in subsection (b)(2)—
(A) by striking “and” and inserting a comma; and

(B) by inserting “, 23, and 24 (to the extent provided for in section 2402(8))” after “(except section 1312(a))”;

(2) in the second sentence of subsection (b), as amended by section 321 of this Act, by inserting “or (d)” after “subsection (c)”; and

(3) in subsection (d)(1), by inserting “or (b), as applicable,” after “subsection (a)”; and

(4) in section (d)(2), by inserting “or whose service is described in subsection (b) and who dies after the date of enactment of the Veterans Benefits Enhancements Act of 2003,” after “November 1, 2000.”.

(b) **NATIONAL CEMETERY INTERMENT.**—Section 2402(8) is amended by inserting “or (b)” after “section 107(a)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

SEC. 323. EXTENSION OF AUTHORITY TO OPERATE REGIONAL OFFICE IN THE PHILIPPINES.

Section 315(b) is amended by striking “December 31, 2003” and inserting “December 31, 2008”.

Subtitle C—Exposure to Hazardous Substances

SEC. 331. RADIATION DOSE RECONSTRUCTION PROGRAM OF DEPARTMENT OF DEFENSE.

(a) **REVIEW OF MISSION, PROCEDURES, AND ADMINISTRATION.**—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall jointly conduct a review of the mission, procedures, and administration of the Radiation Dose Reconstruction Program of the Department of Defense.

(2) In conducting the review under paragraph (1), the Secretaries shall—

(A) determine whether any additional actions are required to ensure that the quality assurance and quality control mechanisms of the Radiation Dose Reconstruction Program are adequate and sufficient for purposes of the program; and

(B) determine the mechanisms of the Radiation Dose Reconstruction Program for communication and interaction with veterans are adequate and sufficient for purposes of the program, including mechanisms to permit veterans to review the assumptions utilized in their dose reconstructions.

(3) Not later than 90 days after the date of the enactment of this Act, the Secretaries shall jointly submit to Congress a report on the review under paragraph (1). The report shall set forth—

(A) the results of the review;

(B) a plan for any actions determined to be required under paragraph (2); and

(C) such other recommendations for the improvement of the mission, procedures, and administration of the Radiation Dose Reconstruction Program as the Secretaries jointly consider appropriate.

(b) **ON-GOING REVIEW AND OVERSIGHT.**—The Secretaries shall jointly take appropriate actions to ensure the on-going independent review and oversight of the Radiation Dose Reconstruction Program, including the establishment of the advisory board required by subsection (c).

(c) **ADVISORY BOARD.**—(1) In taking actions under subsection (b), the Secretaries shall jointly appoint an advisory board to provide review and oversight of the Radiation Dose Reconstruction Program.

(2) The advisory board under paragraph (1) shall be composed of the following:

(A) At least one expert in historical dose reconstruction of the type conducted under the Radiation Dose Reconstruction Program.

(B) At least one expert in radiation health matters.

(C) At least one expert in risk communications matters.

(D) A representative of the Department of Veterans Affairs.

(E) A representative of the Defense Threat Reduction Agency.

(F) At least three veterans, including at least one veteran who is a member of an atomic veterans group.

(3) The advisory board under paragraph (1) shall—

(A) conduct periodic, random audits of dose reconstructions under the Radiation Dose Reconstruction Program and of decisions by the Department of Veterans Affairs on claims for service connection of radiogenic diseases;

(B) assist the Department of Veterans Affairs and the Defense Threat Reduction Agency in communicating to veterans information on the

mission, procedures, and evidentiary requirements of the Radiation Dose Reconstruction Program; and

(C) carry out such other activities with respect to the review and oversight of the Radiation Dose Reconstruction Program as the Secretaries shall jointly specify.

(4) The advisory board under paragraph (1) may make such recommendations on modifications in the mission or procedures of the Radiation Dose Reconstruction Program as the advisory board considers appropriate as a result of the audits conducted under paragraph (3)(A).

SEC. 332. STUDY ON DISPOSITION OF AIR FORCE HEALTH STUDY.

(a) *IN GENERAL.*—The Secretary of Veterans Affairs shall, in accordance with this section, carry out a study to determine the appropriate disposition of the Air Force Health Study, an epidemiologic study of Air Force personnel who were responsible for conducting aerial spray missions of herbicides during the Vietnam era.

(b) *STUDY THROUGH NATIONAL ACADEMY OF SCIENCES.*—Not later than sixty days after the date of the enactment of this Act, the Secretary shall seek to enter into an agreement with the National Academy of Sciences, or another appropriate scientific organization, to carry out the study required by subsection (a).

(c) *ELEMENTS.*—Under the study under subsection (a), the National Academy of Sciences, or other appropriate scientific organization, shall address the following:

(1) The scientific merit of retaining and maintaining the medical records, other study data, and laboratory specimens collected in the course of the Air Force Health Study after the currently-scheduled termination date of the study in 2006.

(2) Whether or not any obstacles exist to retaining and maintaining the medical records, other study data, and laboratory specimens referred to in paragraph (1), including privacy concerns.

(3) The advisability of providing independent oversight of the medical records, other study data, and laboratory specimens referred to in paragraph (1), and of any further study of such records, data, and specimens, and, if so, the mechanism for providing such oversight.

(4) The advisability of extending the Air Force Health Study, including the potential value and relevance of extending the study, the potential cost of extending the study, and the Federal or non-Federal entity best suited to continue the study if extended.

(5) The advisability of making the laboratory specimens of the Air Force Health Study available for independent research, including the potential value and relevance of such research, and the potential cost of such research.

(d) *REPORT.*—Not later than 60 days after entering into an agreement under subsection (b), the National Academy of Sciences, or other appropriate scientific organization, shall submit to the Secretary and Congress a report on the results of the study under subsection (a). The report shall include the results of the study, including the matters addressed under subsection (c), and such other recommendations as the Academy, or other appropriate scientific organization, considers appropriate as a result of the study.

SEC. 333. FUNDING OF MEDICAL FOLLOW-UP AGENCY OF INSTITUTE OF MEDICINE OF NATIONAL ACADEMY OF SCIENCES FOR EPIDEMIOLOGICAL RESEARCH ON MEMBERS OF THE ARMED FORCES AND VETERANS.

(a) *FUNDING BY DEPARTMENT OF VETERANS AFFAIRS.*—(1) The Secretary of Veterans Affairs shall make available to the National Academy of Sciences in each of fiscal years 2004 through 2013, \$250,000 for the Medical Follow-Up Agency of the Institute of Medicine of the Academy for purposes of epidemiological research on members of the Armed Forces and veterans.

(2) The Secretary of Veterans Affairs shall make available amounts under paragraph (1) for

a fiscal year from amounts available for the Department of Veterans Affairs for that fiscal year.

(b) *FUNDING BY DEPARTMENT OF DEFENSE.*—(1) The Secretary of Defense shall make available to the National Academy of Sciences in each of fiscal years 2004 through 2013, \$250,000 for the Medical Follow-Up Agency for purposes of epidemiological research on members of the Armed Forces and veterans.

(2) The Secretary of Defense shall make available amounts under paragraph (1) for a fiscal year from amounts available for the Department of Defense for that fiscal year.

(c) *USE OF FUNDS.*—The Medical Follow-Up Agency shall use funds made available under subsections (a) and (b) for epidemiological research on members of the Armed Forces and veterans.

(d) *SUPPLEMENT NOT SUPPLANT.*—Amounts made available to the Medical Follow-Up Agency under this section for a fiscal year for the purposes referred to in subsection (c) are in addition to any other amounts made available to the Agency for that fiscal year for those purposes.

Subtitle D—Other Matters

SEC. 341. FOUR-YEAR EXTENSION OF ADVISORY COMMITTEE ON MINORITY VETERANS.

Section 544(e) is amended by striking “December 31, 2003” and inserting “December 31, 2007”.

SEC. 342. VETERANS’ ADVISORY COMMITTEE ON EDUCATION.

(a) *MEMBERSHIP.*—Subsection (a) of section 3692 is amended in the second sentence by inserting “, to the maximum extent practicable,” after “The committee shall also”.

(b) *EXTENSION.*—Subsection (c) of that section is amended by striking “December 31, 2003” and inserting “December 31, 2013”.

(c) *TECHNICAL AMENDMENTS.*—That section is further amended—

(1) in subsections (a) and (b), by striking “chapter 106” each place it appears and inserting “chapter 1606”; and

(2) in subsection (b), by striking “chapter 30” and inserting “chapters 30”.

SEC. 343. TEMPORARY AUTHORITY FOR PERFORMANCE OF MEDICAL DISABILITIES EXAMINATIONS BY CONTRACT PHYSICIANS.

(a) *IN GENERAL.*—Notwithstanding the limitation in section 504(b) the Veterans’ Benefits Improvements Act of 1996 (Public Law 104-275; 110 Stat. 3341; 38 U.S.C. 5101 note) and using funds subject to appropriation (other than funds available for compensation and pension), the Secretary of Veterans Affairs may provide for the conduct of examinations with respect to the medical disabilities of applicants for benefits under laws administered by the Secretary by persons other than Department of Veterans Affairs employees.

(b) *PERFORMANCE BY CONTRACT.*—Examinations under the authority in subsection (a) shall be conducted pursuant to contracts entered into and administered by the Under Secretary for Benefits.

(c) *EXPIRATION.*—The authority in subsection (a) shall expire on December 31, 2009. No examination may be carried out under the authority in that subsection after that date.

(d) *REPORT.*—Not later than four years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the utilization of the authority in subsection (a), including an assessment of the effect of examinations under that authority on the cost, timeliness, and thoroughness of examinations with respect to the medical disabilities of applicants for benefits under laws administered by the Secretary.

SEC. 344. TECHNICAL AMENDMENT.

Section 1974(a)(5) is amended by striking “Secretary of Transportation” and inserting “Secretary of Homeland Security”.

BENEFITS BUY-OUT SCHEMES

Mr. NELSON of Florida. Mr. President, would the Senator from Florida be willing to engage me in a colloquy?

Mr. GRAHAM of Florida. I would be pleased to engage in a colloquy with my friend from Florida.

Mr. NELSON of Florida. Mr. President, I have come to the floor today to speak about important language included in this year’s veterans benefits bill that must be included in the final conference report. This language addresses a situation that I feel demands our immediate attention—the protection of our veterans and their benefits from the predatory lending practices of some unscrupulous businesses.

Mr. President, over a year ago, a group of disabled veterans in Florida brought to my attention the issue of benefits buy-out schemes that target our most vulnerable disabled veterans. These scams offer to advance to a veteran a lump-sum amount of money for access to the veterans’ future disability compensation often at outrageous interest rates of 30 percent or more.

I thank the Veterans Affairs Committee and the distinguished chairman, ARLEN SPECTER, and the ranking member, Senator BOB GRAHAM, for their leadership in support of this effort. These Senators and their staffs have worked tirelessly to craft this language in a manner that will stop these scams without adversely affecting a veterans’ ability to use credit.

I respectfully request that the distinguished ranking member continue this effort and support this language during conference in the interest of our veterans and the protection of their benefits and pensions.

Mr. GRAHAM of Florida. I would like to add my voice of support and commitment to this important language. I will work to ensure the final conference report includes this language. We can no longer wait to institute these important policies that will serve to protect our veterans from benefits buy-out schemes.

Mr. NELSON of Florida. I would like to thank the distinguished ranking member for his efforts and I look forward to the final conference report on the veterans benefits bill.

Mr. President, I wish to speak about important language included in this year’s veterans benefits bill that must be included in the final conference report. This language addresses a situation that I feel demands our immediate attention—the protection of our veterans and their benefits from the predatory lending practices of some unscrupulous businesses.

Over a year ago, a group of disabled veterans in Florida brought to my attention the issue of benefits buy-out schemes that target our most vulnerable disabled veterans. These scams offer to advance to a veteran a lump sum amount of money for access to the veterans’ future disability compensation, often at outrageous interest rates of 30 percent or more.

In order to avoid Federal laws prohibiting veterans from assigning their benefits to another party, these scams require the veteran to open a joint account from which the lending company automatically withdraws the veterans benefits.

We can all agree that a law preventing veterans from assigning their benefits to another individual should also bar this type of an arrangement—where money is directly withdrawn before the veteran can access their benefits or pension.

Last May the National Consumer Law Center, NCLC, released a report about financial and commercial scams directed at our military, veterans and their families—this report included an examination of these veterans benefits buy-out schemes.

The NCLC concluded that lump sum pension schemes are illegal under a variety of Federal and State truth in lending, usury or consumer laws, and that remedies exist, but require burdensome and costly court action on the part of the veteran.

I was not surprised to see that they agree with my findings that the assignment of veterans benefits is indeed illegal under current law.

But they also agree that due to a lack of clarity in the law and, therefore, the absence of any enforcement efforts, veterans are left open to unscrupulous exploitation and the loss of their benefits.

The analysis and conclusion in the report by the National Consumer Law Center have removed any doubt about the risk to our disabled veterans and the need for congressional action.

I want to make it abundantly clear that we are not trying to deny veterans access to normal credit systems: credit cards, personal loans, or home loans. We are trying to ensure that loans made to veterans are not out of the reach of State usury laws, which protect all types of consumers.

Greater protection is needed for our most vulnerable veterans—the disabled and the elderly. They are among the most needy and, once ensnared by these schemes, intimidated and threatened with lawsuits.

As you know, I introduced similar legislation last year, cosponsored by Senator MCCAIN and others that would tighten our laws and better protect our

veterans from these schemes. Although we adopted this legislation in the Senate as part of last year's veterans benefits bill, the House conferees would not agree to include it in the conference report.

This year, we must ensure that the conference report includes this language and that we are doing all we can to protect veterans from these unscrupulous and predatory practices.

I thank the Veterans Affairs Committee and for Senator SPECTER's and Senator GRAHAM's leadership in support of this effort. I respectfully request that they continue this effort and fight for this language during conference in the interest of our veterans and their benefits.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the committee-reported substitute be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

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

The bill (S. 1132), as amended, was read the third time and passed.

ORDERS FOR MONDAY, NOVEMBER 3, 2003

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 11 a.m., Monday, November 3. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to the consideration of the conference report to accompany H.R. 3289, the Iraq-Afghanistan supplemental appropriations bill, as provided under the previous order; provided that following the disposition of the conference report, the Senate proceed to the consideration of the conference report to accompany H.R. 2691, the Interior appropriations bill, as provided under the previous order.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

PROGRAM

Mr. MCCONNELL. Mr. President, for the information of all Senators, on Monday, the Senate will begin consideration of the conference report to accompany the Iraq-Afghanistan supplemental appropriations bill. There will be 6 hours of debate prior to adopting the conference report; however, that conference report will not require a rollcall vote. Following the disposition of the conference report, the Senate will take up the conference report to accompany H.R. 2691, the Interior appropriations bill. There will be 1 hour of debate prior to a vote on the adoption of the conference report. The vote on the interior appropriations conference report will occur between 5:30 and 6 on Monday, and that vote will be the first vote of Monday's session.

ADJOURNMENT UNTIL MONDAY, NOVEMBER 3, 2003, AT 11 A.M.

Mr. MCCONNELL. 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 12:34 p.m., adjourned until Monday, November 3, 2003, at 11 a.m.

NOMINATIONS

Executive nomination received by the Senate October 31, 2003:

THE JUDICIARY

WALTER D. KELLEY, JR., OF VIRGINIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA, VICE HENRY C. MORGAN, JR., RETIRING.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 31, 2003:

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NAOMI CHURCHILL EARP, OF VIRGINIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2005.

LESLIE SILVERMAN, OF VIRGINIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2008.

STUART ISHIMARU, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2007.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.