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Senate

The Senate met at 10 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

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

Let us pray:

Merciful God, who surrendered Your powers to serve humanity, thank You for Your model of sacrifice that reminds us that it is better to give than to receive. Forgive us when our preoccupation with selfish dreams keeps us from surrendering to Your will. Help us to live so that we give You our best and keep us from those roads that lead to ruin. We pray for those in our world who must deal with the insanity of terrorism. Give them courage to meet these challenges.

Guide Your Senators today. Make nothing deter them from doing Your will. Give them faith to meet each crisis and wisdom for each decision. Help each of us to give ourselves completely to You, and give us peace through Him who is the Prince of Peace.

Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 12, 2004.

To the Senate:

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

TED STEVENS,
President pro tempore.

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Leadership time is reserved.

MORNING BUSINESS

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, today the Senate will be in a period of morning business to allow the Senators to make statements and to introduce legislation.

As I announced last night, or early this morning, there will be no rollcall votes over the course of today. I do not anticipate a long session today. If Senators do wish to introduce legislation or make statements, I encourage them to do so this morning.

We were able to complete the budget resolution about 9 hours ago, at 1 in the morning, or shortly after that. I

thank all of my colleagues for their willingness to stay very late last night and into the early hours of the morning in order to complete our business.

Truthfully, it was a very busy week, but the fact we were able to pass this budget resolution with reconciliation, the fact we were able to do a couple judges early this morning and finish business on a number of nominations, I think should bring us all a great deal of satisfaction. It is very important for us in these busy times to continue to govern, and govern well. I think yesterday represented just that.

As I look over yesterday, we completed 19 rollcall votes throughout the day and evening. We had very few breaks. Chairman NICKLES and Ranking Member CONRAD did a tremendous job in processing the amendments and bringing the resolution to completion. I thank them for their efforts.

As a reminder, the next rollcall vote will occur on Tuesday, March 23. I will have more to say on the upcoming schedule at the close of business today.

Mr. President, I have several unanimous consent requests. Would the Democratic leader like to comment?

Mr. DASCHLE. No.

AUTHORIZING THE PRESIDENT TO AGREE WITH THE GOVERNMENT OF MEXICO TO AMENDMENTS TO THE AGREEMENT CONCERNING A BORDER ENVIRONMENT COOPERATION COMMISSION AND NORTH AMERICAN DEVELOPMENT BANK

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 254 and the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will state the bill by title.

The legislative clerk read as follows:

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



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S2755

A bill (H.R. 254) to authorize the President of the United States to agree to certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the Hutchison substitute be agreed to, the bill, as amended, be read the 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 ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 2856) was agreed to, as follows:

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

The bill (H.R. 254), as amended, was read the third time and passed.

SMALL BUSINESS PROGRAMS EXTENSION ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 3915, which is at the desk.

The ACTING PRESIDENT pro tempore. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3915) to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through April 2, 2004, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Ms. SNOWE. Mr. President, I rise today to speak to the approval of H.R. 3915, a bill adopted by the House yesterday to provide a short-term extension of the Small Business Administration, SBA, and all of its programs. In particular, it ensures the continuation of the SBA's 504 loan program, a vital program for small businesses. The bill extends the authorization for the 504 loan program through May 21, 2004, and extends the authorization for other SBA programs, such as the Preferred Surety Bond Program, and Small Disadvantaged Business Program, and the SBA's cosponsorship authority, through April 2, 2004.

On September 26, 2003, the Senate unanimously approved the Small Business Administration 50th Anniversary Reauthorization Act of 2003, S. 1375, which I introduced as the chair of the Committee on Small Business. That bill provides for the 3-year reauthorization of the SBA and its small business programs, including the 504 loan program.

The reauthorization bill will continue the SBA's role in assisting American small businesses to thrive and grow, through the agency's lending and other programs and services. Most im-

portantly, it will enable the agency to help small businesses continue creating new jobs for our economy. According to the SBA, reauthorizing the agency will result in an estimated 3.3 million jobs created or retained over the next 5 years.

While the Small Business Administration 50th Anniversary Reauthorization Act provides for the continuation of these programs, the other body continues to be delayed in its consideration of legislation to reauthorize the agency. The SBA's programs that rely on appropriations have continued since the Commerce, Justice, State and the Judiciary appropriations legislation for fiscal year 2004 was enacted. However, several of the SBA's programs and activities, such as the 504 loan program, do not rely on appropriations. As a result, they are in jeopardy of shutting down without the bill before us today, and that's a result America's small businesses simply cannot afford.

I am confident that we can enact legislation to reauthorize the SBA once the other body has completed work on its version of the bill. In the interim, we must ensure that the SBA can continue to offer the entire range of its programs to our Nation's small businesses, which are the driving force behind our current economic recovery.

The 504 loan program, one of the agency's flagship lending programs, allows small businesses to obtain long-term, fixed-rate financing to purchase land, buildings, or equipment. In the past 4 fiscal years, the SBA has provided guarantees for more than 20,000 loans through the 504 loan program, for a total of approximately \$8.6 billion, and these loans have allowed small businesses to create or retain more than 445,000 jobs.

The 504 program relies on fees charged to the program participants, rather than on Federal appropriations charged to the taxpayers, to fund their operation. Because the program relies on Federal funds, the SBA needs legislative authorization to collect the fees that operate the programs and ensure that they function at a zero subsidy rate.

I am also extremely concerned about the SBA's section 7(a) business loan program. I strongly believe that we must act to ensure that the 7(a) program remains a source of long-term capital for small businesses, including those small businesses that need large loans. The 7(a) program is currently suffering from a funding shortfall, as demand for loans has exceeded the available appropriations this year, as it has four times in the last 10 years.

In that regard, yesterday I introduced the Small Business Loan Revitalization Act, S. 2193. I was pleased to be joined in sponsoring that act by my colleagues, Mr. BOND, Mr. ENZI, and Mr. COLEMAN. With the improvements contained in that act, I am confident that we can soon help the 7(a) program to once again provide the financing that small businesses so desperately need.

We must act today to ensure that the SBA and its programs continue. The bill before us achieves that goal by extending the authorization for the 504 program through May 21, 2004, and for the agency and its other programs through April 2, 2004. That will provide time for the other body to pass its legislation, for us to reconcile the differences, and for the President to sign a long-term reauthorization bill for the SBA.

This legislation is absolutely necessary for America's small businesses. I urge my colleagues to support this bill and thereby ensure that the SBA, and in particular the 504 loan program, will continue to serve small businesses and enable small businesses to obtain the financing they need, as they contribute so greatly to the revitalization of our national economy.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, I want to make a few comments about H.R. 3915 that will be considered by the Senate today. This bill contains two temporary extensions of authority. One that is general, keeping the Small Business Administration and its programs operating through April 2, 2004, and another that is specific to the SBA's 504 Loan Guarantee Program, keeping it operational through May 21, 2004.

I support this bill, and am relieved the 504 Loan Guarantee Program will not lose its authority to keep making loans to small businesses that are growing, creating jobs and helping our communities. However, there are other serious problems concerning the SBA's 7(a) Loan Guarantee Program and Women's Business Centers that are urgent and should be addressed before the Senate recesses tonight for a week. I introduced a bill earlier this week, S. 2186, the SBA Emergency Authorization Extension Act of 2004, which sets forth workable solutions for those issues. At that time I urged my colleagues to take immediate action and consider it. Senator SNOWE also introduced a bill this week, S. 2196, which addressed the 7(a) Loan Guarantee Program funding shortfall, which I support and would have supported as an amendment to this extension. Like the small business community, I am disappointed that the bigger solution for small business lending is being delayed another couple of weeks.

Some people think a couple of weeks can do no harm. But in the 7(a) Loan Guarantee Program, small businesses caught in the middle of the administration's funding schemes might not make it. And the funding problems will fester because it will operate at a more expensive cost than if we enacted the temporary program changes that the lending and small business communities support and are strongly urging the Congress to adopt. Two weeks could mean about half a billion in lending. I disagree with the administration's tactics and I hope that during

this next brief extension they will work with the Senate and House committees to pass program changes that resolve these issues fairly, effectively and expeditiously. Their plan does not work and the small business and lending communities are opposed to it. We need a plan that does.

I look forward to working with my colleagues to resolve this as soon as possible.●

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 3915) was read the third time and passed.

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DESIGNATING THE WEEK OF MARCH 7 THROUGH MARCH 13, 2004, AS "NATIONAL PATIENT SAFETY AWARENESS WEEK"

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 320, submitted earlier today by Senators GRAHAM of Florida, SNOWE, GREGG, and others.

The ACTING PRESIDENT pro tempore. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 320) designating the week of March 7 through 13, 2004, as "National Patient Safety Awareness Week."

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAHAM of Florida. Mr. President, I am very pleased to introduce a resolution to recognize the week of March 7–March 14 as "National Patient Safety Awareness Week" with my colleagues and friends Senator SNOWE, Senator GREGG, Senator DODD and Senator JEFFORDS.

We know that patient safety is a paramount health care issue today: a 1998 Institute of Medicine study shocked us with the fact that nearly 100,000 Americans die each year from medical errors in our clinical settings alone, which highlights both the gravity and emotion associated with this complex challenge.

Some of us have experienced the tragedy of medical error, either directly or through a family member or friend. We are not unique; estimates show that about one in every 5 Americans has experienced a medical error or has a family member who has experienced a medical error.

In addition to the profound emotional cost of these errors, the added burden placed on an already overburdened health care system is equally profound. The cost of medical care provided to correct an error, and the lost wages for those whose recoveries are extended because of medical errors is significant. The Institute of Medicine put a price tag of between \$17 and \$29

billion per year on the overall costs to our economy and our citizens due to medical errors.

We can do better; indeed, we must do better. We can strengthen our efforts to apply proven safety techniques from other sectors and industries that have developed a culture of safety, like the aviation industry. By focusing on system changes, significant progress can be achieved in making our health care system safer.

As legislators, we have drafted a range of proposals to address and improve the systems factors that lead to medical errors. As we think about ways to create a safer health care system, we must continue to work with healthcare professionals, patients and their families to ensure our healthcare systems place an absolute premium on the safety of its patients. In this regard, Senator SNOWE and I have introduced a bill to reduce medication errors in hospitals and skilled nursing facilities. Other cosponsors of this resolution have supported legislation that would create a voluntary reporting system. As we consider these pieces of legislation, it is important to remember that medical errors are a multifaceted problem to which there are multiple solutions.

This resolution addresses another key element in our quest to make our health care system safer: that being to fuel the "power of partnership" between patients, families and healthcare professionals. The "power of partnership" is the theme of this year's Patient Safety Awareness Week, sponsored by the National Patient Safety Foundation. Our recognition of National Patient Safety Awareness Week is an important addition to our efforts to create a safer health care system by promoting increased patient education and highlighting the importance of partnership between healthcare providers and patients.

"Patient Safety Awareness Week" deserves the support of the United States Congress, and I urge my colleagues to support this Senate Resolution. While Patient Safety Awareness Week will not solve all the challenges associated with medical errors, it does launch us on a path of progress, and brings us one step closer.

Through a bipartisan partnership we can highlight the importance of patient safety and the role of the patient and their families in achieving a safer health care system.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD as if read, without intervening action or debate.

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

The resolution (S. Res. 320) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 320

Whereas patient safety is an issue of significant importance to the United States;

Whereas 1 in every 5 citizens of the United States has experienced a medical error or has a family member who has experienced a medical error;

Whereas medical errors often have serious and profound consequences;

Whereas it is estimated that injuries from preventable medical errors cost the United States economy between \$17,000,000,000 and \$29,000,000,000 each year;

Whereas more people die annually from medical errors than from automobile accidents, breast cancer, and AIDS;

Whereas increased patient and provider education and collaboration can help avoid medical errors;

Whereas the Institute of Medicine has stated that a "critical component of a comprehensive strategy to improve patient safety is to create an environment that encourages organizations to identify errors, evaluate causes and take appropriate actions to improve performance in the future," and further, that "a more conducive environment is needed to encourage health care professionals and organizations to identify, analyze, and report errors without threat of litigation and without compromising patients' legal rights";

Whereas better systems can be implemented to reduce the factors that lead to medical errors;

Whereas innovative educational and research programs are being conducted by the National Patient Safety Foundation as well as by other public and private entities to develop methods for avoiding preventable injuries and to assess the effectiveness of new techniques to increase patient safety; and

Whereas education of the public on medical errors and the factors that typically lead to medical errors empowers patients to be more effective partners with health care providers in the battle against preventable injuries from medical errors: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of March 7 through March 13, 2004, as "National Patient Safety Awareness Week"; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the week with appropriate programs and activities.

—————

NATIONAL SAFE PLACE WEEK

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 309 and that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 309) designating the week beginning March 14, 2004, as "National Safe Place Week".

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 309) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 309

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place Program is committed to protecting our Nation's most valuable asset, our youth, by offering short term "safe places" at neighborhood locations where trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas the Safe Place Program combines the efforts of the private sector and non-profit organizations uniting to reach youth in the early stages of crisis;

Whereas the Safe Place Program provides a direct way to assist programs in meeting performance standards relative to outreach and community relations, as set forth in the Federal Runaway and Homeless Youth Act guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas more than 700 communities in 42 States and more than 14,000 locations have established Safe Place Programs;

Whereas more than 68,000 young people have gone to Safe Place locations to get help when faced with crisis situations;

Whereas through the efforts of Safe Place coordinators across the country each year more than one-half million students learn that Safe Place is a resource if abusive or neglectful situations exist; and

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

Resolved, That the Senate—

(1) proclaims the week of March 14 through March 20, 2004, as "National Safe Place Week"; and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place Programs, and to observe the week with appropriate ceremonies and activities.

STAR PRINT—REPORT 108-225

Mr. FRIST. Mr. President, I ask unanimous consent that the Report 108-225 be star printed with the changes at the desk.

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

CAMBODIA

Mr. FRIST. Mr. President, I will close with a short statement on obser-

vations I made based on a recent article in the Boston Globe entitled "Cambodia's Rights Movement Faces Peril." I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. FRIST. Mr. President, this article describes ongoing political violence and intimidation in Cambodia against democracy and human rights advocates and the oppressive environment in which these courageous individuals work. Kem Sokha, Sam Rainsy, and all champions of freedom, have my respect and my support.

While I recognize their bravery and selflessness, I also hear their concerns for their own safety. Tragically, the body count of peaceful advocates murdered in the line of duty continues to grow. Alliance of Democrats spokesman Sam Ung Bung-Ang is right on the mark in saying:

It's not a bloody step forward when we go from 1 million dead [under the Khmer Rouge regime] to 200. Life is life, and one murder is too many.

Caretaker Prime Minister Hun Sen and the Cambodian People's Party have failed to uphold the rule of law or to create conditions conducive to the growth of democracy and prosperity. I add my voice to those calling for new leadership in Cambodia.

Let me close by recognizing the work of the International Republican Institute in Cambodia. For over a decade, through grenade attacks, a coup d'etat, and several flawed elections, the institute has stood shoulder to shoulder with those struggling for freedom.

In such a hostile environment and witness to countless injustices, the institute's Cambodia director, Jackson Cox, is right to ask of the international community: Where's the outrage?

It is past time the world's democracies stood up to champion liberty in Cambodia. While Cambodia may seem small and unworthy of the world's attention, we should not forget terrorism thrives in lawless and chaotic conditions, the very kind we find in Cambodia today. It is a warning and a plea. I urge my colleagues to support reform in this troubled land.

EXHIBIT 1

[From the Boston Globe, Feb. 29, 2004]

CAMBODIA'S RIGHTS MOVEMENT FACES PERIL;
RECENT SLAYINGS RENEW OLD FEARS

(By Rafael D. Frankel)

PHNOM PENH, CAMBODIA.—On a recent trip to a village along the banks of the Mekong River, Kem Sokha brought along not only his trusted bodyguard but also a private American security specialist.

Kem Sokha is not a politician, a big businessman, or a diplomat, but a leader in Cambodia's fledgling human rights movement. And he believes his life is in danger.

The recent brazen killings of a prominent labor organizer, Chea Vichea, and several others affiliated with an opposition political group have heightened the sense of lawfulness in Cambodia, where murder is seen as a

common political tool—and the rich and powerful seem above the law.

The nation's police, judiciary, and elections institutions are controlled by the ruling party, led by Prime Minister Hun Sen, and many Cambodians and foreign aid workers have little confidence that justice can be served.

"I fear the killing fields in Cambodia are still open," said Kem Sokha, president of the Cambodia Center for Human Rights, referring to the place the genocidal Khmer Rouge regime would kill its victims of torture from 1975 to 1979.

Hun Sen, a former Khmer Rouge member who deserted the regime and joined the resistance, has maintained his grip on power in one form or another for nearly two decades through collaboration with Vietnam, military coups, and elections deemed by international observers as lacking "free and fair" standards.

The most recent elections, in July, saw the ruling Cambodian People's Party win a majority of seats in Parliament, but not the two-thirds required to form a government. Since then, a tense political drama has heated up between the CPP and the Democratic Alliance, made up of two opposition parties. Although both sides talk of reaching a settlement soon, the stalemate persists.

The government crisis has coincided with a wave of high-profile murders the past few months.

Chea Vichea, 36, who was affiliated with the opposition Sam Rainsy Party, was killed Jan. 22 in broad daylight in a drive-by shooting in Phnom Penh. A radio journalist, a famous actress, and her mother—all associated with the Democratic Alliance—were gunned down in a similar fashion.

Human rights workers and opposition leaders have seized on what they called a questionable investigation into Chea Vichea's killing, saying it shows the history of impunity that has plagued Cambodia for decades is still prevalent. Two suspects are being held; one accused police of beating him to force a confession.

Accusations have been leveled by the opposition and democracy organizations that the killings were intended as a warning to opposition leaders to join the prime minister in a government.

A ruling-party spokesman, Khieu Kanharith, rejected any idea that the killings were ordered by members of his party, saying the allegations were political ploys. "If we wanted to use violence, why wouldn't we have hit someone higher up in the party?" he said.

But outside of the government, the killings have raised alarms.

"They certainly appear to be politically motivated," said Jackson Cox, the Cambodia director of the International Republican Institute, an American organization that promotes democracy around the world. "The political situation here is tense, and members of the opposition, both high and low, are being murdered."

The recent killings have foreign relief workers and many Cambodian wondering whether Cambodia's development as a democracy has foundered after making great strides since the United Nations launched a \$2 billion relief effort in 1992.

The government points out that Cambodia was rebuilding from total disaster. While many problems remain, the political situation is much less violent than in the past, Khieu Kanharith said.

The opposition rejects such reasoning. "It's not a bloody step forward when we go from 1 million dead to 200," said Sam Ung Bung-Ang, a spokesman for the Democratic Alliance. "Life is life, and one murder is too many."

Development statistics paint a picture of slow progress. A 2003 UN report said Cambodia is still ranked 130 of 173 countries on the Human Development Index. Other than Laos, Cambodia has the lowest life expectancy and literacy rates in the region, and the highest mortality rates for mothers and young children.

"With the economy now, state assets are war spoils, and what we call 'corruption' . . . is simply [the government] running the country like a family business," said Sam Rainsy, the main opposition party leader. "If we continue like that, we will go down the drain."

Asked about the pace of Cambodia's development and human rights record under the current government, the government spokesman said more time and money were needed. (Cambodia receives about \$500 million annually from foreign donors.) He also said Cambodia was being held to a higher standard of democracy than its neighbors.

"We don't have enough human resources," Khieu Kanharith said. "We've had a lot of assistance from donor countries. If you want to blame someone, blame them."

Many are now looking for the international community to increase the pressure on the government. Although some U.S. senators have criticized the government, reaction from most foreign governments and development institutions, many of whom provide the funding for Cambodia to function, has been muted.

"Where is the outrage?" asked Cox, from the International Republican Institute.

Meanwhile, the political stalemate had delayed the convening of the long-awaited Khmer Rouge war-crimes tribunal. Government and opposition politicians say the tribunal would go forward once a government was formed.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

WOMEN AND HEART DISEASE

Mr. FRIST. Mr. President, I rise to talk about an issue that is very close to my heart, having spent most of my professional career fighting heart disease. I will start with a couple of facts people may or may not know, and then make several points in terms of the importance of prevention.

Fact No. 1, as I travel around the country and talk, whether it is in the field of medicine or as a policymaker, is that more women will die of heart disease this year than men. I say that and it is surprising to many people because historically people thought because of the difference in gender and hormonal conditions women would be protected from heart disease. But, again, more women will die of heart disease than men. Indeed, each year 500,000 women—half a million people—die of heart disease in this country.

Heart disease is a big spectrum, and heart attack is about one-half of those

deaths, a heart attack where there is blockage of blood flow to a part of a heart. That means more than one-quarter of a million women in the United States each year are struck down by this one disease. In fact, heart disease is the No. 1 killer of women in this country.

Heart disease is at the top of the list—it is No. 1—and kills more women than the next seven causes of death combined. So we have the top eight causes of death, with heart disease as the No. 1 diagnosis, and if we add up all the other seven, we still do not have as many as those who die of heart disease.

As I speak right now, about 8 million women are living with some element of heart disease, a potentially fatal condition. In my home State of Tennessee, nearly 200,000 women suffer with heart disease which has proved that heart disease affects all age groups. Mr. President, 73,000 women in Tennessee are living with heart disease under the age of 64. So it is not just our elderly with heart disease.

This is an area in medicine that can respond to education, to public information, but there are few people today who are aware of how widespread and how devastating heart disease is among women. We know it is among men, and we have seen the old images and the warning signs of a clenched fist, centralized pain as if an elephant is stepping on your chest, and if we look at the old pictures used in public education, health education, programs and posters, almost always it is a man with a clenched fist or grabbing both fists.

That imagery is played over to the point that most people do not realize how serious this disease is in women. It is imperative that we get the word out, and I want to use this pulpit over the next 2 or 3 minutes to do just that.

I encourage people to learn what the causes of heart disease are, what the consequences of heart disease are, and what steps can be taken in order to lower the risk in terms of prevention because we know what the risk factors are. We know there are certain things that can be done, and if they are done, it minimizes the risk either of being debilitated by heart disease or dying of heart disease.

The obvious things—again they need to be stressed because they are simple to do, but you have to do them—are improving one's diet, taking regular, consistent, and moderate exercise. One does not have to overdo it, but it is regular, consistent, moderate exercise.

The addiction of smoking has so many people locked in its grasp. Some of our young people do start smoking, and then if they do start smoking they have to work very hard to break that addiction. I say that again as a heart surgeon.

So many people I operate on—there are hundreds and hundreds of people I speak to and educate who are not in the Senate, but being in the operating room, opening up people's chests, taking veins out of the leg or from under-

neath the breast bone and hooking them on to the heart because of heart disease, that is strongly related to smoking. So if one stops smoking, it is less likely they will have that heart disease, and less likely that they will have the heart surgery.

Preventive screening: There are preventive screening tests, things such as putting a blood pressure cup on the arm. In our recent Medicare bill that we passed 2 months ago, for the first time in Medicare we have a routine physical exam so things such as hypertension can be detected.

It is amazing in Medicare, the great program that we have today—but one that needs to continue to be improved—that we did not have that basic entry level physical exam, where heart disease can be detected, until under President Bush's leadership we passed this recent Medicare bill.

Sometimes heart disease strikes seemingly healthy women who may not have ever had symptoms, who have no history of either being sick or in poor health in some way, who have those risk factors. It attacks people who have not smoked as well.

That is what happened to a Memphis mother of three, Kathy Kastan, who at the age of 42 suffered a heart attack. She tells her story this way:

At 42 years old, I considered myself a healthy, optimistic woman blessed with three healthy boys, a wonderful husband and devoted friends. I have always been less than average weight, a nonsmoker and have exercised my entire life. But then I noticed that during exertion like biking or running or swimming, that I would get strange symptoms like nausea, turning pale, having shortness of breath. On occasion I would get a tingling down my left arm and left sided shoulder pain. But never once did I consider that I could have heart problems. And then one day, in a blink of an eye my life changed forever.

As it turned out, Kathy had a condition known as vasospasm, or vessel spasm, which is exactly what it says, where the vessels go into spasm and they squeeze down; therefore, not as much blood can get through that vessel because of a contraction of coronary arteries. Coronary arteries are the vessels that feed the heart. The heart needs to get that blood, that nutrient, that oxygen because if there is obstruction of the blood flow going to the heart, the heart muscle does not work, and that is what we call a heart attack.

Kathy went through five procedures where stints were inserted in these vessels. They are almost like a straw. If you can imagine, like a straw the vessel is squished down, and the stint is put in to keep the vessel open so it cannot squeeze down even when it goes into vasospasm.

Then she underwent what is called a coronary artery bypass operation which does require opening the chest and taking a vein from the leg or an artery called internal mammary artery and hooking it on to the heart to bypass those vessels which contract down.

For 8 months, Kathy says she simply could not believe what was happening to her. Remember, 42 years old, optimistic, healthy woman who had been struck by this disease. She was young, she was active at the time, and I quote:

When I had chest pain, I even began to doubt myself and thought that maybe I was going insane.

Happily, Kathy is recovering and getting her life back to normal, and she credits her family, her close friends, her doctor, and the professionals at WomenHeart, which is a national organization devoted to educating, advocating, and supporting women with heart disease. It has been a tough road. There were days she could not even move from room to room in her own house without suffering these crushing, excruciating chest pains. She is getting the treatment she needs and again, in her words:

I am back to being a mother who can take almost anything my kids dish out.

Well, Kathy is one of millions of sufferers and, like Kathy, before the heart attack many women do not even know they have a heart problem. They only find it out when it becomes severe.

As majority leader of the Senate, and as a physician, as one who has spent his professional life studying that human heart and working in programs of prevention as well as treatment of heart disease, I joined with the President of the United States, President Bush, and First Lady Laura Bush, and other congressional leaders to launch what is called the Heart Truth Campaign. It is vital that we raise awareness so women get the treatment they need and that they take the proper precautions so they never have to have that later treatment.

I encourage my fellow Senators to get the word out, to share information among themselves and among their own families, among their own communities and among their constituents back home to participate in educating the public about this very serious health issue.

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

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

MIKE O'CALLAGHAN: A TRUE PATRIOT

Mr. DASCHLE. Mr. President, last night just before we closed I noted the absence of our distinguished assistant Democratic leader, Senator REID. He was attending the funeral of one of his closest personal friends. I come to the floor this morning just to talk for a couple of minutes about this remarkable individual.

Of course I am talking about a true American patriot and hero, Michael O'Callaghan. While we all mourn Governor O'Callaghan's passing, I am heartened that we here in this Chamber will continue to feel the impact of this great man through the service of his protege and former student, HARRY REID.

The essence of Governor O'Callaghan's contribution is perhaps best captured by an effort he undertook in Nicaragua in 1996. He was in that war-torn country to observe the elections that would mark its first ever peaceful transition of power between democratically elected presidents.

At 66, Governor O'Callaghan could have asked to observe elections in the nation's capital or its second city, but he insisted on going north to the Honduran border to observe elections among some of the most marginalized people in a country of marginalized people. He had to go there—in a battered truck over rained-out roads—because, he said, these were his people whom he had gotten to know in the 1980s, and he wanted to be there with them as they celebrated the democracy they had earned.

That determination and generosity of spirit marked Governor O'Callaghan's life. He was highly decorated, with the Purple Heart, the Bronze Star with a V for valor, and the Silver Star, in the Korean war, during which he lost a leg.

Aware of that bravery and personal strength, Sargent Shriver reached out to Michael O'Callaghan to make him a point man in President Kennedy's and President Johnson's fight against poverty.

Also aware of that bravery and strength of character, the people of Nevada made him their Governor from 1971 to 1979.

It was HARRY REID's awareness of O'Callaghan's bravery and character that led me, with great pride, to recommend him just last month to serve on the Veterans Benefit Commission.

Governor O'Callaghan died last Friday morning doing what he did each and every morning of his life—attending daily mass before he went to work at the Las Vegas Sun. He also fought for the poor and disenfranchised—from Korea to Nicaragua to Nevada—each and every day of his life.

While we are saddened by the loss of Michael O'Callaghan, we can take comfort in the knowledge that his generosity of spirit, his strength of character, and his devotion to his State and country will not soon be forgotten, and that his values and commitment to public service live on in our colleague and his close friend, HARRY REID.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

THE NOMINATION OF DR. MARK McCLELLAN AND THE RE-IMPORTATION OF FDA-APPROVED PRESCRIPTION DRUGS

Mr. DORGAN. Mr. President, we have finished our work on the budget resolution early this morning, I guess at 1:30 or so this morning. One of the last items of business that was conducted by the Senate this morning was the clearing of the nomination of Dr. Mark McClellan. I want to talk, just for a moment, about that issue.

As you know, I had put a hold on his nomination. I want to explain the background of that hold and what happened last evening that allowed me to withdraw my hold on the nomination and allow his confirmation to occur.

First of all, Dr. McClellan is the head of the Food and Drug Administration, and he has been nominated by the President to run the organization that administers the Medicare and Medicaid Programs. It is a very important position. It is an important position that he held as head of the FDA, and the new position is also very important.

We had asked Dr. McClellan for some months to come to the Senate Commerce Committee and testify. The reason we did that is we have a very significant debate in this country, and especially in this Congress, about the subject of the cost of prescription drugs.

We have had an abiding, lengthy debate here in the Congress about the prospect of importing prescription drugs: Medicines from Canada, for example, are the same prescription drugs sold in this country—same pill, put in the same bottle, made by the same company. The only difference is that they are sold for a substantial discount in Canada compared to the price U.S. consumers pay in this country.

The U.S. consumer pays the highest prices in the world for prescription drugs, so many pharmacists and individuals have a desire to import that identical drug for a lesser price from other countries. They do this in Europe all the time. It is called parallel trading. If you are in Spain and want to buy a prescription drug from Germany, you order it. If you are in Italy and want to buy a prescription drug from France, that is not a problem. So the trade in prescription drugs between countries in Europe occurs regularly. The Senate Commerce Committee has heard testimony about it. There are no safety issues.

We have run into a problem because Dr. McClellan as head of the FDA decided to wage an aggressive campaign to try to prevent the re-importation of prescription drugs and to prevent the enactment of legislation in Congress that would allow for the re-importation of prescription drugs. We asked Dr. McClellan to come to the Senate

Commerce Committee to discuss this issue, and he was also asked repeatedly to testify in the House of Representatives. He repeatedly refused to do so.

As a result, I put a hold on his nomination. It was not acceptable to me to move Dr. McClellan's nomination unless he was willing to come and testify before the Congress on these issues.

Yesterday, Dr. McClellan did testify before the Commerce Committee. I and others, including Senator MCCAIN, asked him a substantial number of questions about these issues.

I had a long telephone conversation with Dr. McClellan last evening. I also had a conversation with the Secretary of Health and Human Services about these same issues. A couple of things happened as a result.

No. 1, Dr. McClellan has given me a commitment that in his new position, when he is asked to testify before the Congress, he is going to testify. That is an important principle for this Congress. We ought not say to people: We will promote you even though you stiff us.

I use the term "stiff," which is a term Senator MCCAIN used yesterday at the hearing. That is exactly what had happened. Dr. McClellan said he has learned from his confirmation experience and when asked to testify before relevant committees of Congress in the future, he intends to do so. That is No. 1. That is an important step.

No. 2, when Dr. McClellan's name was cleared last evening, Senator FRIST put this statement in the Senate RECORD:

Mr. President, I announce for the information of my colleagues that, in consultation with the chairman of the Senate Committee on Health, Education, Labor, and Pensions, Senator DORGAN, Senator STABENOW, Senator MCCAIN, Senator COCHRAN, and other interested Senators, the Senate will begin a process for developing proposals that would allow for the safe reimportation of FDA-approved prescription drugs.

What is the import of that? The majority leader of the Senate, for the first time, has made a commitment: He wants to put together a group that will develop proposals that will allow for the safe reimportation of prescription drugs. That is a change.

The question now is not whether we have some mechanism by which we can import prescription drugs and, therefore, have access to the reduced prices. Instead, the question is how can we do that. The majority leader used the word "allow." "Developing a process that will allow for the safe reimportation of FDA-approved prescription drugs." That is a significant change and a significant commitment. We will no longer fight about whether this ought to happen. We will fight about, perhaps, the mechanics of how to make it happen. And that is OK with me.

I appreciate Senator FRIST's statement and his commitment. Senator FRIST and I spoke four or five times last evening about this before he put his statement in the RECORD.

Again, the majority leader has said that he commits to beginning a process

that will develop proposals that will allow for the safe importation of approved prescription drugs. That is a significant change and a significant commitment. I appreciate the words and the commitment of the majority leader.

The minority leader, Senator DASCHLE, has also worked on this issue for some long while. Senator DASCHLE is a supporter of re-importation done under conditions that would provide for safety and also for savings for American consumers.

Based on those two things—a commitment from Dr. McClellan that when asked to testify, he will testify, and also the commitment by Senator FRIST to move towards developing proposals that will allow for the re-importation of FDA-approved drugs—I lifted my hold and Dr. McClellan was approved.

What we have accomplished in the last few days—Senator MCCAIN, myself, Senator SNOWE, Senator STABENOW, and others—is a significant shift, and it will inevitably lead to a change in public policy that will allow for the safe reimportation of FDA-approved drugs that will allow the American people to get them at a lower price. That is the goal.

I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I congratulate the distinguished Senator from North Dakota for his tireless efforts and for the success he has now described. Without his persistent leadership, and the effort he has made over the last couple of days, we would not be in the position we are today. I know I speak for senior citizens and certainly for the members of our caucus and many others who care deeply about this issue. He has moved the process forward in quite a dramatic way in the last 48 hours. Were it not for his persistence and the leverage he had with regard to this nomination, we would not be in the position we are. I am grateful to him for the work he has done.

As he has just noted, this definitely moves the ball forward. This is a significant development that will once again allow the Senate the opportunity to consider the issue of drug reimportation in a meaningful way.

I have absolutely no doubt there is growing support for the efforts of the Senator from North Dakota and others who have been advocating for drug reimportation. In the last couple of days, the Senator from Mississippi, Mr. LOTT, announced his change of position, and for good reason. I talked with him last night about his desire to be supportive of the effort. He, too, is troubled by the pharmaceutical rip-off that is now going on and the determination among drug companies to hold senior citizens captive to high prices for prescription drugs. On a bipartisan basis, Senator LOTT, and Republicans and Democrats alike, have joined Senator DORGAN. This allows us,

once again, to look at ways with which to address the issue.

I commend the Senator for his success and applaud him for keeping the Senate's focus where it belongs: on bringing lower drug prices to seniors.

I also acknowledge his role in moving the McClellan nomination forward. This was a controversial nomination in some ways. I have been working with the majority leader over the last couple of days to consider the ramifications of either holding up the nomination or moving it forward. I will have more to say in a moment about another very disturbing bit of news that has just been released this morning.

But I think because of the extraordinary responsibilities that go to the office of CMS Administrator, filling that position is something that is important. I supported the effort to try to move this nomination forward in spite of some of the misgivings I have, as described so well by the distinguished Senator from North Dakota.

Let me say, though, that when we come back from the recess, I will come to the floor to talk more specifically about nominations and the process that is currently being employed with regard to the consideration of other nominees from this administration. Last night, I spoke with the distinguished majority leader about some of the concerns I have. There are now over a dozen Democratic nominees, some of whom have been held for months by the administration. Their refusal to send the nominations to the Senate has caused many of us to be concerned about the fairness with which this process has been implemented. It will be very difficult for us to move forward on nominees in the future if this matter is not resolved.

I have indicated to the majority leader that I will be providing him with the names of those people who have not been given fair consideration and whose names have been withheld. And whether it is in regard to judges or with regard to other executive appointments, there has to be a reciprocal treatment of nominees.

If we are not able to move these nominees in the future, I think it would be very difficult for us to at least consider all of those who are being given to us by the administration with an expectation that they will be voted upon until this matter is resolved.

We will have more to say about that when we return from the week recess.

THE MEDICARE DRUG BILL

Mr. DASCHLE. Mr. President, I wanted to call attention to another matter that just came to our attention this morning. There was a story filed by the Knight Ridder news organization in the Miami Herald, by Tony Pugh. The Miami Herald and other papers have had this story now on the Internet. I wanted to read a piece of it:

The government's top expert on Medicare costs was warned that he would be fired if he

told key lawmakers about a series of Bush administration cost estimates that could have torpedoed congressional passage of the White House-backed Medicare prescription drug plan.

The Senator from North Dakota was just addressing this issue. Obviously, the reimportation plan was part of the Medicare legislation, and had we been able to pass a meaningful reimportation provision, we could have brought down costs.

Again, quoting from a report copy-righted by the Miami Herald:

When the House of Representatives passed the controversial benefit by five votes last November, the White House was embracing an estimate by the Congressional Budget Office that it would cost \$395 billion in the first 10 years. But for months the administration's own analysts in the Centers for Medicare and Medicaid Services had concluded repeatedly that the drug benefit could cost upward of \$100 billion more than that.

Withholding the higher cost projections was important because the White House was facing a revolt from 13 conservative House Republicans who had vowed to vote against the bill if it cost more than \$400 billion.

Representative Sue Myrick of North Carolina, one of the 13 Republicans, said she was "very upset" when she learned of the higher estimate.

"I think a lot of people probably would have reconsidered [voting for the bill] because we said that \$400 billion was our top of the line," Myrick said.

Five months before the November House vote, the government's chief Medicare actuary had estimated that a similar plan the Senate was considering would cost \$551 billion over 10 years. Two months after Congress approved the new benefit, White House Budget Director Joshua Bolten disclosed that he expected it to cost \$534 billion.

Richard Foster, the chief actuary for the Centers for Medicare and Medicaid Services, which produced the \$551 billion estimate, told colleagues last June that he would be fired if he revealed numbers relating to the higher estimate to lawmakers.

"This whole episode, which has now gone on for 3 weeks, has been pretty nightmarish," Foster wrote in an e-mail to some of his colleagues June 26, just before the first congressional vote on the drug bill. "I'm perhaps no longer in grave danger of being fired, but there remains a strong likelihood that I will have to resign in protest of the withholding of important technical information from key policymakers for political reasons."

Cybele Bjorklund, the Democratic staff director for the House Ways and Means health subcommittee, which worked on the drug benefit, said Thomas Scully—then the director of the Medicare office—told her that he ordered Foster to withhold information and that Foster would be fired for insubordination if he disobeyed.

The vote on this Medicare legislation was one of the most critical decisions Congress had made in 40 years on Medicare. We are talking about a difference of more than \$150 billion. What this article states is that key members of the administration were told they would be fired if they told Congress the truth. I think this is one of the most reprehensible actions that I have seen since coming to Congress.

For the life of me, I cannot understand how such irresponsible behavior could be condoned, could be allowed.

We will get to the bottom of this. But I think it calls into question how laws are made. It certainly calls into question what efforts may now be made by the administration to keep information on other issues from Congress, before we make critical decisions.

I think we ought to bring this bill back for another vote. I think the House and the Senate deserve to have a vote based on all of the information, not just part of it. If this and perhaps other information was withheld, Members of Congress were called to vote under false pretenses. They were called to vote without having the truth. On an issue with these repercussions, we have no other choice but to revote this issue.

Already, the Congress has tried to offer corrections to the bill. Bills have been offered and amendments suggested to try to correct many of the problems created by this bill. But now we know, based on the information provided in this article, that not only are there significant policy questions, but the very issues provided to Congress as fact before were, in fact, untruthful misrepresentations upon which Congress voted mistakenly.

So we are going to have to review the available options that we have, with regard to how this happened and what ought to be done. I think an investigation of some kind is certainly warranted. Whether this is criminal or not is a matter that we will certainly want to clarify. But if not criminal, it is certainly unethical.

I think we need to know the facts. How did this happen? Why did it happen? Are there precedents for things like this happening for which the situation called for another vote? As close as that vote was, in the dead of night, I think we owe it to the American people, we owe it to seniors, to reconsider these votes and question whether or not we can put in place some absolute guarantee that this will never happen again.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, following the comments of my colleague, this is a shameful thing to have had happen and to read about. It breaks the bonds of trust that exist in this town. This is a political town, so we expect politics, but not in the context of information given us by agencies that are inherently nonpolitical and are supposed to give us good information with which to make public judgments and policy. I agree fully with my colleague. This not only breaks the bonds of trust, but it is a shameful and disgusting thing to read in a paper this morning. My hope is that it is fully investigated.

TRIBUTE TO JIM TESCHER

Mr. DORGAN. Mr. President, on another subject, I will now make some comments about a North Dakotan who

has died. I want to do this for a very special reason. I think his passing needs to be noted by us.

Willie Nelson has a song called "My Heroes Have Always Been Cowboys." Out in my part of the country—I grew up in western North Dakota—we understand Willie Nelson's music and lyrics and what his songs mean. Willie Nelson really gave voice, with "My Heroes Have Always Been Cowboys" to a way of life—about rodeos, ranch life, 10-gallon hats, pickup trucks, sweet clover, wild horses, newborn calves, going to town on Saturday night, good neighbors, strong families, and living free.

I grew up in a small area of western North Dakota. My dad was a good horseman. He raised horses. When I was a young boy, we went to rodeos. We did not have professional sports. We did not have Major League Baseball or the National Football League. We went to rodeos.

I recall as a young boy going to the rodeos in all the small towns in North Dakota, but also going to the National Western Livestock Show in the coliseum in Denver, CO. Cy Tallon was the announcer, one of the great rodeo announcers in our country. He would announce, "Coming out of chute No. 2, Jim Tescher from North Dakota."

We had cowboys who were the best in the world—Jim Tescher, Tom Tescher, Alvin Nelson, Duane Howard, Dean Armstrong—tops in the world. I remember how proud I had been hearing these North Dakotans being introduced at the National Western Livestock Show—saddle-bronc riders, bareback riders, and bull riders. They were the best in the world—tough, good people and champions.

Last month, one of them died. In a cemetery in the Badlands of North Dakota up on a hill, his casket sat to be buried. His name was Jim Tescher. He came from a ranch in the Badlands of North Dakota. He rode in rodeos in Madison Square Garden, the Boston Garden, and the Cow Palace. He won the saddle-bronc riding in the National Finals Rodeo twice. He was a real champion. He went for 2 years at one stretch as a professional RCA cowboy without being bucked off a saddle-bronc horse. Think of that: 2 years without being bucked off a saddle-bronc riding in rodeos.

His first love was the ranch, the cows, and the horses, so he rodeoed when he could. He didn't rodeo as much as some of the others, but when he did, he was a winner. After a long rodeo career, he returned to his ranch to live in the Badlands.

Last summer, he was driving a little four-wheeler out in the Badlands to check on some cattle and it tipped, fell down a cliff, and pinned him and paralyzed him from the neck down. I went to visit him at Thanksgiving time in the hospital in Mandan, ND. Jim was lying in his hospital room paralyzed. He said to me that what he really wanted to do was try to get back to the ranch and the Badlands and look out

the picture window and see his cattle out again.

On December 23, they put Jim in a wheelchair and wheeled him down to the front door of the hospital wrapped in a blanket. Unbeknownst to him, his daughter had fetched his horse Bonner, a horse just over 20 years old. Bonner had been with Jim all of his life. She brought his horse Bonner in from 180 miles away. She hauled him in a horse trailer.

His daughter had Bonner standing behind a tree. They wheeled Jim out in a wheelchair and led Bonner out from behind the tree. This horse had not seen his master for about 5, 6 months. Jim could not lift his hands, but he made that clicking sound with his mouth that cowboys make to their horse, and Bonner walked over and nuzzled him on the nose. He still knew Jim after 6 months in the hospital. Jim had tears in his eyes that day.

About 4 days later, Jim died, and on January 3, a group gathered in the cemetery in the Badlands to bury him. This picture which was in the *Cowboy Chronicle* in North Dakota shows a man named Brad Gjermundson, also a North Dakotan, a four-time world saddle bronc champion rider. He rode to that cemetery following the hearse leading Jim's horse Bonner. As Jim was to be buried that day in a coffin decorated with his well-worn cowboy boots, some spurs, a rope, and some cedar from the Badlands, the cowboys from North Dakota gathered around to pay their last respects.

This picture shows a lonely horse watching his master being put away. When I saw that picture in the *Cowboy Chronicle*, I knew I wanted to share with my colleagues the fact that this country has lost a really great champion, a champion rodeo rider, but also a champion human being.

Teddy Roosevelt once lived in those Badlands, and Teddy Roosevelt once said: Cowboys don't walk real well; that's because they do most of their work in the saddle. He could have said: Cowboys don't talk much either; they just love their country, they honor family values, and they live free. And that describes Jim Tescher's life. He, in my judgment, is one of those real American heroes, a North Dakota champion, and our State will miss him.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MARTY PAONE'S 25TH ANNIVERSARY OF SERVICE IN SENATE CHAMBER

Mr. DASCHLE. Next Monday, March 15, the Senate will be in recess. As Ju-

lius Caesar could tell you, the Ides of March is a good day to be far from the Senate Chamber, but this Ides of March the Senate family has something to celebrate: the 25th anniversary of Marty Paone's service to the Senate Chamber.

The Senate is not the simplest of institutions. The rules and traditions that govern our work can seem baffling even to the most experienced legislator. Marty has the most comprehensive understanding of the rules and procedures of the Senate of anyone I have ever known.

We may lose an issue because we do not have the votes, but in my time in the Senate we have never lost an issue on procedural grounds. In fact, we have even won a few, and when we do, it is thanks to Marty's extraordinary knowledge and unerring counsel.

He not only knows what the rules are, but how they serve the greater purpose of maintaining the Senate's unique role within our democracy. This innate understanding has come as a result of a quarter century of dedicated service to the Senate and our Nation.

Marty was born in Everett, MA, and is a graduate of Boston College. After graduation, he made his way to Washington to attend graduate school at Georgetown University. It was while working on his master's degree in Russian studies that he first came to Capitol Hill. While attending school, he worked in the House post office and later moved to the Senate parking office. In 1979, Marty joined the staff of the Senate Democratic cloakroom. A few years later he joined the Senate Democratic floor staff, and in 1991 became assistant secretary for the minority. In 1995, he was elected by the Democratic Caucus to the position he holds today, secretary for the minority.

Each of us knows that the Senate has its own peculiar schedule that is unpredictable at best, but no one knows that better than Marty. Twenty-one years ago, while planning his wedding, he and his fiancée Ruby, who is also a member of the Senate family, pored over the calendar looking for a date that they could be certain the Senate would be out of session. They chose Veterans Day and made their plans.

Perhaps predictably, the Senate held a rare Veterans Day session that year, and Marty did what he has seldom done in his 25 years, he actually missed a day of work. Fortunately, the Senate adjourned early enough for Marty's colleagues to share in his and Ruby's joy that day and make the wedding.

Fitting one's family life around the peculiar schedule of the Senate is never easy. It takes a lot of patience, a good sense of humor, qualities that Marty has in abundance. We are grateful to him, his family, his wife Ruby, and their children Alexander, Stephanie, and T.J., for sharing their husband and father with us.

During his time in the Senate, Marty has shown unequalled dedication and

loyalty to our institution and to the men and women who serve here. As a result, he has won the trust of every Senator and every staff person who has ever had the honor of working with him.

Thanks to his experience, every Senator is better able to serve his or her constituents and the Senate is better able to serve the needs of the American people. We owe him an extraordinary debt of gratitude. There is no one I know who has more respect and affection for the Senate as an institution than Marty. On behalf of the entire Democratic Caucus, I thank him for his service of 25 years.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

A SQUANDERED OPPORTUNITY ON LANDMINES

Mr. LEAHY. Madam President, on February 27, I spoke on the floor about the administration's new policy on landmines. It is a policy that some in the administration had leaked to the press the day before it was to be announced. And many believed it was being done to give it the most positive spin possible.

The reason I want to take some time to discuss it just prior to this recess is some Senator may be asked about it. I want them to know what the policy does and what it does not do.

The centerpiece of the policy is the administration's announcement that they will eliminate, in 6 years, all persistent or "dumb" landmines that remain lethal indefinitely.

First, let me say that any decision by this or any other administration to eliminate any type of landmine is a positive step. I concur with the administration on this. These indiscriminate weapons do not belong in the arsenal of the world's only superpower. Actually, they do not belong in the arsenal of any civilized nation. They do not differentiate between a child and a soldier. They are inhumane. They should be banned.

I have traveled to many parts of the world, sometimes in places where we use the Leahy War Victims Fund. I have seen those who have been crippled and disfigured by landmines.

My wife is a nurse. Before she retired, she was on a medical surgical unit. She has gone into some of the surgery wards in these countries where a child had a limb blown off, and it had to be reamputated to fit a prosthesis. It is terrible. And while there are military people on either side who are injured or killed, it is usually civilians. The vast number are civilians.

So the fact that the administration is pledging to get rid of these so-called dumb mines, including anti-vehicle dumb mines—albeit not until 2010—that is constructive. It sets a good example.

But what was not said in the press release, of course, is that the United States has not used this type of landmine for decades. We have not even used them in Korea along the demilitarized zone.

We have stockpiles of these mines around the world, but they are widely recognized by our military as posing not only an unacceptable danger to civilians, but also to our own troops. Once these mines are in the ground, they impede the mobility of our own forces. I cannot imagine any combat officer—certainly none trained by the United States—who would support using these indiscriminate weapons in this day and age.

So the bottom line is that the administration is saying: Since we do not use these mines, have not used these mines for decades, we will get rid of them, and we want the world to credit us for that.

Well, that is sort of like saying we are going to stop using leaded gasoline in the United States to reduce air pollution. Of course, we have not used leaded gasoline for years, so it really is not an issue.

What the administration says is that its new policy will “help reduce humanitarian risk and save the lives of U.S. military personnel and civilians.” But insofar as we do not use these mines, and have not used them for years, the claim is meaningful only to the extent that we can convince other nations to stop using them.

Now, to do that, the administration says it will seek a worldwide ban on the sale or export of dumb landmines. That is a positive announcement. But is it realistic?

We tried this back in 1994. We got nowhere because other nations refused to even discuss giving up their mines if we refused to give up ours. I have yet to hear anybody say why they believe the reaction of other nations, such as China, Russia, Pakistan, and India, is going to be any different this time.

After 2 years of reviewing the landmine policy, we say we are going to eliminate the mines we no longer use. But what the administration glosses over is that it has abandoned the key pledges the Pentagon made 6 years ago to phase out all antipersonnel mines outside of Korea by 2003, and in Korea by 2006. That would mean all the mines would be gone now, outside of Korea; and in Korea, the year after next. That used to be U.S. policy, until February 27.

That commitment included not only dumb mines but also self-destructing mines. And the commitment to find suitable alternatives to replace these self-destructing mines was painstakingly negotiated in 1998 between myself and the White House and the Pentagon.

The administration now defends its decision to abandon the pledge to phase out these weapons on the grounds that “after they are no longer needed on the battle field, [these mines] detonate or turn themselves off, eliminating the threat to civilians.” They say “self-destructing landmines have been rigorously tested and have never failed to destroy themselves or become inert within a set time.”

Now, these self-destructing mines, these mines with timers, do pose less of a danger to civilians. If the world only used this type of mine, we would still have casualties of civilians, but there would be far fewer.

But it is not that simple. For one thing, the mines are also dumb. Once activated, they cannot distinguish between an enemy soldier and a fleeing refugee or a child trying to get out of harm’s way any better than any other dumb mine.

If they are touched, they will explode. You could be the farmer trying to get his animals out of harm’s way because a war is going on. These mines cannot distinguish between the farmer and an enemy gunner.

Secondly, we have only used this type of mine once and that was in the first Gulf War. We used them there because we had assurances from the Pentagon that they had been well tested and they would self-destruct so we did not have to worry about them.

Guess what. After that war, U.S. and British deminers discovered thousands of these mines that had not self-destructed as designed. They still needed to be disarmed. In fact, I had one leader in combat in the first gulf war who said: We did use them.

I said: Did you trust them to self-destruct?

He said: Heck no. Neither I nor anybody under my command would dare send our troops across a field where we have been told all these mines had self-destructed because we knew that a certain number of them would not.

Most importantly, Mr. President, by insisting we will continue to use our more expensive self-destructing mines, which the administration does, we give other nations an excuse to continue to use their cheap dumb mines. I don’t know how many times I have talked to officials of other nations. I have said: Why don’t you stop using land mines?

They have asked me: How can you, the most powerful nation history has ever known, tell us we should give up our land mines when you say you can’t give up yours?

There is no answer to that.

There was strong opposition in the Pentagon when we passed my amendment—finally, in the end, every single Senator voted for it—which banned the export of anti-personnel land mines. Now the Pentagon and everybody else brags about the step forward we took in banning the export of land mines. It was a good step. But when we had a chance to join the Ottawa process to ban these mines once and for all, we

stepped back from it. And because of that, we made it easy for Russia and China, other countries, to do so.

In fact, I believe in our hemisphere there are only two countries that don’t ban land mines—the United States and Cuba. Everybody else has. In fact, 150 nations, including every member of NATO except the United States, has joined the Ottawa Treaty banning anti-personnel mines.

It is arrogance for our country to take such a unilateral attitude, for us to say: We know it is for your own good, get rid of land mines, but we won’t.

Many times on this floor I have talked about flying in a helicopter along the Honduras-Nicaragua border at the height of the contra war. I stopped at a hospital on the Honduras side, an area carved out of the jungle. It was a very rudimentary hospital, with a small, separate unit for an operating room that was air-conditioned and sterile. The hospital part had a dirt floor, barracks, row after row of cots, in the corner, just some blankets.

A young boy stayed there, 12 years old or so. He had been living there for years since he lost his leg. He hobbled around on a homemade crutch. He was a peasant child who could not go to work in the jungle and help his family to get food because he was not up to it. He couldn’t climb the steep trails. He had been out looking for food when he stepped on a land mine.

I asked him whether it was put there by the Sandinistas or the contras. He didn’t know who they were. He didn’t even know there was another country just over the mountains called Nicaragua. But he did know his life was changed. Unlike those of us who are privileged to serve in this body where, if we lost a leg we could continue to do our work, be paid the same, there would be some inconveniences, but we would make it. Not he. If he didn’t have the floor of the hospital dormitory and if he didn’t have the medics to give him some food, he had no place to go. There are thousands of people—thousands of children—like that.

After that, we started the Leahy war veterans fund, which to the credit of our Nation, does use \$12 million a year to buy artificial limbs, wheelchairs, and other assistance for war victims. We have passed a law to ban the export of land mines.

But it is like trying to stop a flood. As long as people continue to make them, continue to use them, they are out there. We can’t bring more pressure on China, one of the big makers and exporters of land mines, because they say, rightly so, the U.S. still uses them.

It is so frustrating. I come from a beautiful State, as does the Presiding Officer. I have hundreds of acres of my tree farm, wonderful fields and hills and mountain trails on which I can walk. My children and grandchildren do. It is so much fun. All you worry about is that you might trip and skin

your knee. You don't have to worry about a land mine.

Somebody said to me in one of these countries, when they were asking about land mines and why we didn't do more in the United States to get rid of them: How long would it take you in the United States to ban them if your children had to go to schools where they were told, you walk exactly between these two lines because, if you step over it, you might have your legs blown off? Or if you are like the teenage girl in Bosnia whose family sent her away at the beginning of the war so she would be safe and finally got word to her that it is safe to come back and she was running to her family and stepped on a mine. Her legs were blown off. I saw that young woman and talked with her in a hospital where the Doctors Without Borders and the Leahy War Victims Fund were helping her and other mine victims.

If this was happening in Washington down on The Mall, if this was happening on the playgrounds of America, we would be rising up and saying: Get rid of these things.

I have talked about this so many times that I am like a broken record. But I will keep talking about it as long as I am in the Senate. I will keep pushing and I will keep traveling around the world working with people who want to get rid of landmines. I will keep raising money for landmine victims, and I will keep trying to get rid of landmines.

I hope someday this wonderful country of ours, which I love and every one of us loves so much, will stand up and say: Enough. We will, by our own example—not by unilateral arrogance saying you get rid of them, but we won't—use the moral suasion of our Nation and get rid of landmines. Maybe then others will, too.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

BERKSHIRE HATHAWAY

Mr. FRIST. Mr. President, we will be wrapping up here in about 15 or 20 minutes.

Seeing the Presiding Officer, who is from Tennessee, I want to pull out something which I find remarkable. It doesn't have anything to do with Senate business, but it does have something to do with the State which the Presiding Officer represents and which I represent. In fact, it is a historic sort of message. The bottom line is very simple. It has to do with saying "thank you" and the thoughtfulness of saying "thank you." I will take a very few

minutes to recount this fascinating story.

In the 2003 annual report of Berkshire Hathaway Incorporated, a report that was released to shareholders on Saturday, March 6, there was a fascinating item that piqued my interest. Berkshire Hathaway is the \$42 billion dollar firm led by someone who is considered to be the greatest stock market investor of all times, Warren E. Buffet. I call the annual report to your attention because it contains an unusual story involving 40 students and a professor from the University of Tennessee.

For the last 5 years, Professor Auxier has led his finance class on a field trip from Knoxville, TN to Nebraska to meet that legendary oracle of Omaha, as Mr. Buffet is known. The meetings there would last as long as 2 hours as students would have and took advantage of that opportunity of peppering the investor with questions on everything, everything from finance to life lessons, to mentors, to instances or occurrences or events that shaped his life. At the end of each meeting, the group presents Mr. Buffet with a gift of appreciation, a gift of thank you for taking the time to share his thoughts with them.

Professor Auxier tells my office his pupils always leave, as we might expect, exhilarated and inspired. At last year's meeting, the Tennessee group presented Mr. Buffet with an autobiography of Knoxville home builder Jim Clayton. The book made sense. It was from their hometown of Knoxville, TN, where the University of Tennessee is located. They left this as a thank you.

This would not be particularly noteworthy except for the fact Mr. Buffet became so interested in Jim Clayton's story and his successful venture—Jim Clayton's successful venture called Clayton Homes—that Mr. Buffet turned around and bought the Knoxville company for \$1.7 billion. He closed that deal last October.

Now the story gets even better. Mr. Buffet was so appreciative of the students who had come to visit him to share his thoughts with them, putting him on to Clayton Homes investment through this very simple gift, so this past October he presented each of them with a share of class B stock in his company. The shares are now worth roughly \$3,100 each. He also gave the professor a share of his class A stock which was worth, as of yesterday, \$94,700. Professor Auxier tells my office when Mr. Buffet unveiled these surprise gifts, everyone was simply, using his words, flabbergasted.

All of this is recounted in Mr. Buffet's annual report to his shareholders. Those shareholders now include those 40 very lucky students and a tremendously appreciative professor from the University of Tennessee.

I believe there are two lessons to be learned from this delightful story. The first is to be interested in other people. We all, no matter how busy we are, should take advantage of that oppor-

tunity to share experiences with others. It also shows Mr. Buffet was interested in other people, the fact that he took this book and he actually read it. It was an autobiography of a fellow businessman, indeed, a long way from his home. He was so impressed he turned around and ended up buying the company for \$1.7 billion.

The students took that opportunity—it is not always easy to go all the way from Tennessee out to Nebraska—to avail themselves of meeting the world's renowned expert in the field. They had the good fortune of getting his advice. What they did not expect is to get that additional per person \$3,100. Now they are that much richer for the experience.

That brings me to the second lesson and then I will close, and that is what I opened with. Make sure you always give a thoughtful thank-you present. It is the right thing to do. You never, ever know where it might lead.

CONFIRMATION OF DR. McCLELLAN, MEDICARE AND DRUG REIMPORTATION

Mr. FRIST. Mr. President, early this morning, in fact, a little over 12 hours ago in the Senate, Dr. Mark McClellan became administrator for the Centers for Medicare and Medicaid Services. I thank all of my colleagues for their cooperation over the course of that whole week, this past week, in order to facilitate the confirmation of Dr. Mark McClellan.

I say that because the responsibilities of the CMS—again, the Centers for Medicare and Medicaid Services—are that of being the Government organization responsible for Medicare and Medicaid in this country. These responsibilities are crucial. The administrator oversees the program that provides health care coverage for over 70 million people, including seniors, as we know, including individuals with disabilities, with low-income children, with pregnant women—a huge responsibility.

This becomes critically important because the challenges facing CMS today are greater than at any time in this agency's history. I say that because the head of that agency, now Dr. McClellan, will be charged with implementing the Medicare Modernization Act and, in a very short period of time, educating seniors about the benefits of the new law, about the advantages of the new law, and how they best can take advantage of these new benefits.

It is going to take a strong and steady hand to get the job done. I am confident, and I think my colleagues on both sides of the aisle have expressed that strong confidence, in Dr. McClellan. He has the skills, he has the commitment, he has the temperament, he has the judgment, he has the leadership abilities, all of which have been demonstrated in Government. He has served under both President Bush and President Clinton in Government, and

also in the private sector as a physician. President Bush nominated exactly the right person for this point in time.

I think the Medicare bill is a tremendous bill. It has tremendous potential to modernize Medicare, on a voluntary basis, where if people want to take advantage of this newer, more modern, more up-to-date Medicare, they can or they can keep exactly what they have.

The legislation was bipartisan. It was signed by the President of the United States last year. If you just back away from it, it does—bottom line—what we know we have needed to do for a long time; that is, to give seniors and individuals with disabilities better access to the most powerful tool in American medicine today: prescription drugs, at lower out-of-pocket costs. That is it. And it is voluntary.

Beginning in a few months—this is, in part, a segue from Dr. McClellan—seniors will be eligible for the savings of 10 to 25 percent, and low-income seniors will receive an additional \$600 in value in additional assistance through the Medicare-endorsed prescription drug cards.

I have had the opportunity to meet this week with a number of outside organizations, including the AARP, where we have talked about the importance of educating seniors appropriately so they can take advantage of these new expanded benefits.

There is a whole range of other benefits in this new, modernized Medicare Program—and we talked a lot about it on the floor—including disease management; chronic disease management; improving preventive care, so we can make the diagnosis of things such as hypertension for people who come of Medicare age; improving the efficiency and safety of Medicare through electronic prescribing, to eliminate the potential of so many errors that can be made through so many steps that currently the prescription of medicines travel; significant regulatory relief.

You put those two together—with Mark McClellan as the person who will be responsible for implementation, with what is a complex system but one that takes action now—and I think we will have a very effective laying out of the benefits so people can take advantage of it.

Mark McClellan's background as a physician, as a doctor, I think will be enormously helpful in translating these legislative reforms into lasting improvements that will give our seniors better health care security. That, again, is sort of the bottom line. You want to be able to look seniors in the eye and say: You will be more secure in terms of your health care with this bill. We know that is the case, but now it has to be implemented. So I look forward to working with Dr. McClellan as he works to implement this new Medicare law. We build on what truly was historic legislation to provide affordable, high-quality care to our seniors.

On the floor earlier today, and last night, and in some hearings with Dr.

McClellan yesterday, the whole issue of prescription drug reimportation has arisen, has been discussed, has been talked about. It is a very important issue, an issue that, as majority leader, I can tell you we will address. It deserves to be addressed.

We addressed it in the past by saying reimportation, under certain prescriptions and limitations. Reimportation is fine, but it is fine only if we can demonstrate and guarantee safety; that is, we can tell a senior, yes, you can have reimportation, say, from Canada, but you can say that and allow it to happen only if you can look that senior in the eye and say: You are going to be OK. The medicine you get will be exactly what is prescribed, with the same sort of safety certification, safety guarantees you get with medicines that are manufactured in the United States.

Some of it—in fact a lot of it—is being driven by the fact we have these skyrocketing costs in health care, which we have to address, we should address, and it is our responsibility to address because they cannot be tolerated long term—whether it is by an individual who is taking care of themselves or their children or their family members or a business with skyrocketing health care costs which are driving the cost of doing business so high they no longer are competitive against other businesses in this country or businesses in other countries.

In fact, it ties to other discussions we have about outsourcing and insourcing and jobs going overseas, because if the cost of doing business gets so high here, and it is not high in other countries, you simply are not going to be able to grow businesses here and people will shift businesses overseas. So we must address it. And we will address it.

Many people believe part of the skyrocketing costs can be addressed by addressing the reimportation of drugs. Indeed, in the Medicare law I was just speaking to, we began to address this issue head on. We, in that bill—a lot of people do not realize it—asked the administration to prepare a comprehensive report that would come back to us in the Congress to identify the myriad of critical issues that are raised by reimportation, including, first and foremost, patient safety.

As a physician, I am going to keep coming back to the patient's safety, because unless we can look people in the eye and guarantee they are going to be safe through obtaining drugs from overseas, we cannot—we just should not—proceed down that path.

Well, in response to the Medicare legislation, the administration has already set up a task force. That task force has begun the process. We look forward to receiving the findings from that task force.

Indeed, the public hearings will begin this coming week while we are in recess. I believe the first meetings are with outside consumer groups that will come in and report to that task force. Then the task force will report back to us.

I also believe the Senate can best—or should best—address this through the committee of jurisdiction. As majority leader, I have tried to focus on appropriate jurisdiction for the committees, and the committee for that is the committee that the Presiding Officer has taken such a leading role on; that is, the HELP Committee, the Health, Education, Labor, and Pensions Committee, that is led by Chairman JUDD GREGG.

Through that committee of jurisdiction, we will begin to examine what barriers do exist—and the safety barrier is one—to reimportation and determine, first, whether there are ways you can reduce those barriers, but how you can reduce those barriers, how we should address those in a legislative fashion, and then reduce those barriers legislatively, if we need to.

I look forward to working with Chairman JUDD GREGG, chairman of the HELP Committee, and to reaching out broadly to all my colleagues—Senator DORGAN, who has taken a real lead on this; Senator MCCAIN; Senator STABENOW; and Senator THAD COCHRAN, who has been the author of the amendment we have used and addressed on the Senate floor, has been a real leader in this field—on both sides of the aisle to address this very important issue.

S. CON. RES. 95

Mr. LEAHY. Mr. President, earlier this morning, an amendment offered by the senior Senator from Ohio was accepted by voice vote. At the time, I withheld from speaking on this amendment in order to expedite consideration of the budget resolution, but I would now like to take a moment to give my full statement.

This amendment addresses a serious shortfall in the President's foreign affairs budget: funding for international health programs.

I commend Senator DEWINE for his leadership on these key humanitarian issues. Compared to some of the other amendments offered today, it is not a large amount of money. But, it means life and death to literally millions of people.

This amendment provides \$330 million for the Child Survival and Health Programs Fund. It is fully offset by reducing the amount that the Federal Government spends on administrative expenses by \$330 million.

This reduction will not be painful. We do not micro-manage the process, and leave it to the administration to determine where to make these cuts. But, I can think of some places that the Administration might want to start.

For example, next year the administration plans to spend \$5.5 billion on "transportation of things"; \$21.1 billion on "supplies and materials" for federal agencies—not including the Department of Defense, Veterans Affairs, and Homeland Security; and about a billion dollars on printing costs.

If you want specifics on how to pay for this, one could come up with this scenario.

The administration is planning to increase the amount spent on "supplies and materials" for the Departments of Agriculture, Commerce, Education, Energy, and Interior and the FDIC. Simply maintaining the FY04 levels for these agencies yields \$158 million. Freezing certain non-defense agencies' budgets for printing costs at the FY04 levels, which would otherwise be increased, brings the total amount of offsets to \$173 million.

To get the remaining \$157 million, one can freeze a number of combinations of proposed FY04 increases for "other services" of non-defense agencies. This includes, but is not limited to, increases to the Departments of Commerce, Energy, the Judicial Branch, and the FDIC. The portions of the government that I just listed total \$365 million so this is more than enough. When added to the ones listed above, this is \$538 million in offsets.

The use of Function 920 to pay for these offsets, which are spread over a range of different functions, is appropriate in this case. This is the type of offset that Function 920 was established to accommodate.

These are not my numbers they are OMB's. I encourage my colleagues to read the Object Class Analysis documents for further information.

I could go on, but we get the point. There is enough flexibility in this budget to do a tiny bit of belt tightening in order to save lives overseas, build goodwill towards the United States, and reduce the conditions—poverty, sickness, and despair—that help terrorists gather fresh recruits.

It may mean a few less paper clips or a few less glossy brochures, but the savings will be well worth it.

The President's national security strategy recognizes the essential role of foreign aid. But while we read about the importance of foreign aid, we don't see it throughout the President's budget request.

Most of us have praised the President's budget for significant increases for the Millennium Challenge Account—MCA—and to combat HIV/AIDS. However, I have serious concerns because a portion of these increases are paid for by robbing other essential programs, like health care and food aid. Our amendment would restore some of these cuts.

Putting AIDS aside, the President's budget cuts essential international health programs by 11.4 percent.

It would cut programs to combat other infectious diseases like measles, which kills 1 million children—not 100,000 or 200,000—but 1 million children each year. Measles can be prevented with a simple vaccine that costs pennies. Yet in many poor countries they cannot get it.

The President's budget would cut programs to combat measles and other infectious diseases like SARS, ebola and malaria, by 24 percent.

The President's budget would cut programs for vulnerable children by 64 percent. These programs help provide the basic necessities of life to orphans, street children, and children whose lives have been turned upside down by war.

Child survival and maternal health programs are also cut. These are the programs that provide lifesaving child immunizations. They also help to reduce needless pregnancy-related deaths each year. Six hundred thousand women die from pregnancy related causes. Almost all of these deaths could be prevented.

We should be moving aggressively to increase funding for these successful programs—not reduce funding.

This is not a partisan issue. Over the past 6 years, Democrats and Republicans have worked side-by-side to increase funding for international health. Funding for AIDS is going up, but it is going up at the expense of programs to combat other diseases which also cause millions of deaths. Preventable deaths. And curable diseases. This is unacceptable.

We cannot save every life. Our international health budget is less than the health budget of my own tiny State of Vermont. The President's budget would cut it even more. Our amendment would at least protect these programs from further cuts.

Less than 1 percent of the Federal budget is used to combat the conditions that cause poverty around the world. This is woefully inadequate. It shortchanges America's future. It invites insecurity.

One would have thought that if September 11 taught us anything, it was that business as usual is no longer tolerable. As I have said before, the President deserves credit for the Millennium Challenge Account and for increasing funding for HIV/AIDS.

But, I ask Senators to look behind the curtain to see these are funded. Some is new money. Sadly, some is from cuts to other essential humanitarian programs.

If we are going to lead, and especially if we are going to ask others to do more, we are going to have to stop playing shell games with the foreign aid budget. Leadership is good policy. Leadership means resources.

I yield the floor.

Mr. BAUCUS. Mr. President, securing this nation's borders and keeping Americans safe from terrorist threats is of the utmost importance to this body. That is why I support the men and women who serve this country. Thousands of men and women are currently deployed in Iraq, Afghanistan and other parts of the world. We count on so many of these brave men and women to protect our communities at a moment's notice and for that, too, we thank them. We want them to come home safe to their families, and to find good jobs and good healthcare waiting for them.

The State of Montana, known affectionately for its "big sky" and small

population, plays a key role in protecting this nation. At the core of this country's national defense is the ICBM program maintained by Malmstrom Air Force Base. This program must be fully modernized and I support Malmstrom's mission 100 percent.

Montana also shoulders a unique responsibility to protect this nation due to the 600-mile land border—the equivalent distance of Washington, DC, to Chicago—we share with Canada. This border is porous and topographically diverse and it constitutes the front line in the war on terrorism. We have to make sure we not only have enough agents at the border, but that we get them the equipment and technology they need to secure Montana's borders, and to head off any threats directed toward populations and infrastructure anywhere else in the country.

Though not every state has an international land border it must secure, every state has the sacred duty to protect the people who call it home. In the past 2½ years, the states, with federal assistance, have made strides in emergency planning and terrorism preparedness. We need to give our first responders the training, equipment, personnel and resources that they need. But we're not there yet and we've got to stay the course. That's why I joined 22 of my colleagues in the Senate in urging the Budget Committee to find a way to restore \$1 billion dollars to the State Homeland Security Grant program that was cut from the fiscal year 2005 budget. Montana's first responders rely almost entirely on this assistance for their terrorism preparedness efforts.

But that's not enough. We need to make sure that our state and local law enforcement get the funding they need if we expect them to protect our communities and prevent the threat of terrorism. How can we expect our communities to fight the war on terrorism if we aren't willing to fund it well enough to win?

The same people who prepare for the unthinkable terrorist plot must also plan for nature's devastation, which our state knows all too well. These brave people serve their communities and their nation without regard for the risks they take. We ought to be thanking them. We ought to get them the personnel and resources they need and I am committed to finding the way to do that. The money needs to be there for coordinated communications for state, local and federal agencies, for fire fighters and emergency managers, so that they can save time and save lives in the event of any disaster we'd rather not imagine.

Security in Montana is more than knowing our borders and communities are protected. It is also knowing that our children are receiving the top notch education we have come to expect. Montana schools have made do with too little for too long. It is access to affordable health care. Unfortunately, access to health care remains a

challenge for many, particularly Native Americans and Veterans. It is critical that the necessary resources are provided in Indian Health Services and Veterans Administration.

Unfortunately, it is commonplace for Native Americans seeking care from Indian Health Service to be denied essential services that most of us simply take for granted. This is a problem.

I believe we also owe it to our veterans to better attend to their medical needs. Surely the greatest nation in the world should be able to keep their promise to the veterans who have fought for and protected our nation.

There are many challenges that face us now. By working together, we will make America stronger.

This week throughout the Senate's debate on the budget several very good amendments, including several on issues I just mentioned, were offered that I, unfortunately, could not support. I do not believe that we need to roll back tax relief that Congress enacted in 2001 to fund this amendment. I supported those 2001 tax cuts. Congress enacted them in a time of massive surpluses. Returning some of those surpluses to the taxpayer was the right thing to do.

We can find other offsets to pay for the spending in this amendment. Offsets like the closing of corporate tax shelters currently pending in the JOBS bill come readily to mind. Before we start rolling back the tax relief that we enacted in 2001, we should ensure that we have taken all reasonable steps to obtain revenues through closing down abusive tax shelters.

I shall look forward to working with my colleagues to find other offsets for their amendments—offsets that as much as possible avoid rolling back the tax relief that we enacted in 2001.

Mr. FEINGOLD. Mr. President, first, I want to offer my congratulations to our Budget Committee Chairman, Senator DON NICKLES, for his efforts to craft a budget. He has announced that he will retire from this body at the end of his current term, and so this will be his last budget resolution, and his work on the Budget Committee and in this body deserve recognition. Though I oppose the budget resolution he produced in committee, and that was approved by this body, I have nothing but the greatest respect for the author of that document.

Let me also note that the resolution passed by the Senate is an improvement on the disastrous budget the President proposed, and I credit Chairman NICKLES with a great deal of that improvement. In particular, I want to commend him for including at least some of the expected cost of our military operations in Iraq and Afghanistan in his mark. Though it is still far short of what our best estimates tell us will be needed, it is a great improvement to the "head in the sand" approach adopted in the President's fiscal year 2005 budget proposal. I regret the committee did not support my amend-

ment to more adequately and honestly budget for our operations, and I very much hope that as it comes out of conference, the final version of the budget resolution will adopt the approach I have advocated—forthright budgeting that pays for our operations instead of shoving the cost onto future generations.

I regret that this theme of "buy now pay later" pervades this budget, as it has for the past 3 years. This resolution heads our budget in the wrong direction. As our distinguished Ranking Member, Senator CONRAD, has noted, when compared with current policies as represented in the CBO baseline and as adjusted by taking out last year's supplemental appropriation for our operations in Iraq and Afghanistan, this budget resolution further worsens the budget bottom line. Budget deficits will be greater, and Government debt will be larger under this budget.

That means that this budget further adds to the burden our children and grandchildren already bear because of the fiscal recklessness of the past three years.

In one important respect, this resolution is a significant improvement over the version reported out of committee, because it restores some of the budget enforcement we so desperately need as we face massive budget deficits for years to come. I was pleased that the Senate approved my amendment to reinstate the discipline of the PAYGO rule which requires that all new mandatory spending and all new tax cuts be offset or be subject to a point of order. As it came out of committee, this resolution maintained the far weaker rules embedded in last year's budget resolution, inviting further damage to the budget, and further debt to be heaped on the backs of future generations. With the adoption of my amendment, the Senate has taken an important step toward turning around the rapidly deteriorating budget position.

This resolution is also an improvement over the original mark offered by the chairman because of an amendment adopted in committee that facilitates the reimportation of FDA-approved prescription medicines that I was proud to join with Senator STABENOW in offering. Our amendment will not only save money for those who rely on those medicines, but it also will reduce our budget deficits and save taxpayers billions of dollars.

And I should note that this resolution does not rely on revenues raised by drilling for oil in the Alaska National Wildlife Reserve, and I want to express my thanks to the chairman for responding to the appeal a number of us made with respect to this issue. I was prepared to fight to remove such language, and I think the chairman was wise not to rely on revenue assumptions that have always been questionable, and that were at risk of being removed from the resolution.

The resolution was also improved on the floor when the body adopted an

amendment offered by Senator BAUCUS which stripped the reconciliation instruction that would have severely limited consideration of the issues surrounding the proposed significant reshaping of Medicaid. The President's proposed changes to that program would put thousands of Wisconsin's most vulnerable residents at risk, and the Baucus amendment will make it harder for Congress and the White House to gut this essential safety net.

I regret the body did not adopt amendments offered by the Senator from Maryland, Mr. SARBANES, and by the Senator from North Dakota, Mr. DORGAN, that would have provided needed support for our first responders, who are on the front lines in our fight against terrorism. The administration did not include adequate support in its budget, nor did the resolution as it came out of committee, and the Senate failed to correct that defect when it rejected those amendments. This is an area of funding as critical to the security of our country as any other, and while I was pleased to support another amendment in this area, offered by the Senator from Maine, Ms. COLLINS, and the Senator from Michigan, Mr. LEVIN, to provide a portion of the resources that are needed, I very much hope further improvement can be made before Congress takes final action on the resolution.

I was also disappointed that the Senate did not act to improve the measure by returning to the "polluter pays" policy that served us so well for many years. I was pleased to join with the Senator from New Jersey, Mr. LAUTENBERG, in offering an amendment to do just that, and I regret that this sensible policy was rejected.

While the Senate failed to add that provision, it did adopt an amendment I strongly supported, to increase funding to support state compliance with Federal clean water standards. The goal of that deficit neutral amendment is to provide \$3.2 billion for the Clean Water State Revolving Fund and \$2.0 billion for the Safe Drinking Water Act Revolving Fund, both vitally important programs that were not adequately funded by the President in his budget submission.

As I noted earlier, this budget heads us down the wrong fiscal path. If we are ever to climb out of the deficit ditch again, we need to start now. Unfortunately, this resolution, though an improvement on what the President proposed, still leaves us worse off than merely extending current policies.

We must do better than that if we are to avoid heaping even more debt onto the already enormous burden our children and grandchildren must bear.

NOMINATION OF NEIL WAKE

Mr. KYL. Mr. President, I support the nomination of Neil Wake to the Federal District Court for the District of Arizona.

Neil Wake is an Arizona native and has practiced law for 29 years in Phoenix as a partner in several law firms and most recently as the sole proprietor of his own firm. Mr. Wake received a bachelor's degree with honors from Arizona State University in 1971 and a law degree, cum laude, from Harvard University, in 1974, where he was a member of the Harvard Civil Liberties Law Review.

His law practice has focused almost entirely on civil litigation. He has handled a wide range of business litigation, administrative and public law litigation, and constitutional litigation under the federal and state constitutions. He has practiced extensively in both state and federal courts, in trial courts and appellate courts, including the Supreme Court of the United States.

Mr. Wake has spoken often at continuing legal education programs on civil procedure, administrative law and judicial review of government action, appellate practice and procedure, and other subjects. He has published articles in the fields of administrative law and appellate procedure.

Mr. Wake has received high recognition from his peers at the bar. Since 1989 he has been listed in *The Best Lawyers in America* for business and appellate litigation upon recommendation of other lawyers so listed. Less than 1 percent of attorneys are so recognized. Since 1993 he has been a Fellow of the American Academy of Appellate Lawyers, a professional society of fewer than 300 members nationwide who are admitted by invitation only and after careful investigation. The American Bar Association's standing committee on Federal Judiciary unanimously gave Mr. Wake its highest evaluation of well qualified for appointment as a Judge of the United States District Court.

He has given many years of service to the bar, to the courts, and to the community. He has served for nearly 20 years on the Arizona State Bar's Committee on Civil Practice and Procedure and for over 20 years on the State Bar's Appellate Handbook Committee. He is a founding member of the State Bar's Indian Law Section and its Appellate Practice Section, of which he is now the Chairman. He has served five times as a judge pro tempore of the Arizona Court of Appeals and is a Member of the National Board of Visitors of The University of Arizona College of Law. He and his wife Shari and other parents founded ICU Care Parents, a support group for parents of critically ill newborns.

Mr. Wake and his wife Shari are the parents of three sons, ages 21, 18, and 10.

Neil Wake will be an outstanding addition to the bench.

THE PROBE INTO THE IMPROPER ACCESS OF JUDICIARY COMMITTEE COMPUTER FILES

Mr. LEAHY. Mr. President, yesterday the Judiciary Committee met in public session to discuss how best to proceed with the investigation into the theft and dissemination of confidential Judiciary Committee computer files. Over the last several weeks and months Democratic Senators have shown great patience with the process.

Last week, the chairman of our committee made the report of the Sergeant at Arms into this matter publicly available. For days, Senators have been consulting about the follow-up investigation that is now needed. Over the last few weeks a number of Senators, Republicans and Democrats, have acknowledged that these matters, now documented in the report of the Senate Sergeant at Arms, warrant further consideration by law enforcement officials. Along with other Senators, I have reached across the aisle to urge all Senators to now join us in a request for a special counsel to conduct the investigation necessary to complete action and assure accountability for this unprecedented partisan espionage within the Senate. Yesterday I renewed that invitation to join in our request for the appointment of a special counsel of the highest integrity and independence to follow up on this matter.

I had hoped that we could move forward together, and yesterday we did achieve a bipartisan majority of the Judiciary, which has now joined in requesting a criminal investigation by an independent prosecutor.

On Wednesday, March 10, nine Senators on the committee sent a letter to the Justice Department seeking the appointment of special counsel in this matter. Thursday morning, March 11, nine Republican Senators wrote to Chairman HATCH and noted:

[We are now certain that only a determination by a professional prosecutor as to whether any laws were violated will bring this matter to a just and timely resolution.

Yesterday all members on the Judiciary Committee endorsed having a professional prosecutor free from politics consider these matters without regard to partisanship.

Last night Republicans and Democrats joined in another letter to the Justice Department to request "appointment of a prosecutor of the highest integrity and independence to investigate and, if appropriate, prosecute all potential crimes related to the access and dissemination of Judiciary Committee staff files" outlined in the report by the Senate Sergeant at Arms.

Someone who is removed from politics is essential. As we outline in our March 10 letter, many of us are concerned that it be special counsel and that the Attorney General recuse himself from the process for a number of reasons. In the March 12 letter from Senators SCHUMER, GRAHAM, DURBIN, CHAMBLISS, KENNEDY and DEWINE, they likewise note that the prosecutor han-

dling the matter must be "free from all conflicts and appearances of conflict." They suggest that Patrick Fitzgerald, who has been given responsibility for the investigation of the lead of CIA operative Valerie Plame's identity, would be an "ideal candidate" and that his mandate is a good model for that of the prosecutor to whom is assigned responsibility for investigation of the matter of the Judiciary Committee computer files.

With respect to the Sergeant at Arms' report, I, again, thank him and his staff for operating in a nonpartisan way and in the best tradition of the Senate. The report shows, without question, that the secret surveillance and stealing of confidential computer files was calculated, systematic and sweeping in its scope. After reading the report, there is a lot more that we do know: We know that more than 4,000 computer files were stolen. We know that the stealing of Democratic computer files occurred over an extended period of time, from at least 2001 into 2003. We know that numerous staff members of Republican Senators and Republican Senate leadership were aware of this activity. We know that what was done was improper, unethical and likely criminal.

However, after reading the report, there is still a lot that we do not know. We do not know how the computer files and the information contained therein were exploited. We do not know whether the stolen computer files or the information in them were shared with the Department of Justice directly or indirectly. We do not know whether they were shared with the White House directly or indirectly. We do not know whether they were shared with any of the nominees. We do not know what stolen files or information contained therein was shared with partisan advocacy groups on the right. Those are among the questions that a special counsel with the tools to conduct a criminal investigation and compel testimony and information may discern. Indeed, the Sergeant-at-Arms report acknowledges many of its limitations and those on the authority of that office to get all the facts.

I hope Senators who care about accountability and the rule of law, and those interested in repairing the damage by this unprecedented spying campaign will support our request for the prompt appointment of a special prosecutor to conduct the criminal investigation into the theft of our computer files that is still needed. I hope the Justice Department will move quickly, properly assign this matter, and conduct an investigation to get to the bottom of the unprecedented wrongdoing that we have suffered.

I ask unanimous consent that copies of the letters of March 10, March 11 and March 12 be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, March 10, 2004.

Hon. JOHN D. ASHCROFT,
Attorney General, U.S. Department of Justice,
Washington, DC.

DEAR ATTORNEY GENERAL ASHCROFT: We write to request that the Department of Justice open a criminal investigation into the theft and use of Democratic computer files from the Senate Judiciary Committee computer server and appoint a special counsel to conduct that investigation.

A criminal investigation into the theft and use of these files is warranted. In addition to press accounts since the middle of November 2003 about the stolen computer files, there has been an investigation by Senator Hatch of his staff and a Senate Sergeant-at-Arms inquiry into this matter. Neither of these investigations had the tools a federal prosecutor has available to compel testimony or subpoena evidence in order to investigate fully who stole or spied on Democratic computer files and how the stolen files were used.

Based on the recent report of the Sergeant-at-Arms, it appears that from some time in 2001 until at least the spring of 2003, and possibly until November 2003, staff of Republican Senators stole and used information from internal and confidential Democratic office computer files, including memoranda from counsel to Senators. Republican staff knowingly exceeded authorized access and intentionally accessed materials on government computers which they knew, from the directory and subdirectory titles, they were not entitled to access, and thereby obtained information used for their advantage and possibly in violation of law. They read, download, printed, and used such files for their own personal and partisan purposes. Employees from Senator Hatch's Judiciary Committee staff and from Majority Leader Frist's Republican Senate leadership staff have resigned in connection with these activities. We believe that the unauthorized accessing, reading, downloading, printing, and use of these files constitute violations of multiple federal and local criminal laws and warrant criminal investigation.

It would be in the public interest to appoint an outside special counsel to investigate these crimes because of the conflict of interest these cases present to the Department. We also respectfully suggest that it would be appropriate for you to recuse yourself from the consideration of this request for a special counsel. Your direct involvement in this matter would present a conflict of interest due to your recent service as a United States Senator and your close personal and political relationships with some of the Senators whose offices are subjects of the investigation and with other Members of the Judiciary Committee. In addition, several former Republican Judiciary Committee staff members, including two with supervisory responsibilities during the period in question, now serve in senior positions within the Department of Justice and others have in the recent past.

Among the many outstanding questions is whether the stolen computer files or information derived therefrom was shared with the Department of Justice or White House directly or indirectly. You and your staff were actively engaged in issues relating to judicial nominations during the period when the activities at issue here were being carried out. As you know, a number of Senators recently wrote to ask about your and the Department's knowledge of, or involvement in, the matter of the stolen computer files and information derived therefrom. Any thorough investigation would have to address these issues as well.

Only a special counsel can investigate this matter in a manner that will have credibility with the public. It is plainly in the public interest to appoint a special counsel. Political appointees should not investigate this matter when the very purpose of the wrongdoing was to assist with politically sensitive judicial confirmations sought by this Administration and managed, in large part, by the Department. We trust that you, or your designee, will agree that a special counsel with a reputation for integrity and impartial decisionmaking and with appropriate experience and resources should be appointed to conduct such an inquiry. Among those resources would be the expertise of the Computer Crimes and Intellectual Property Section of the Criminal Division, which has assisted in the investigation and prosecution of similar federal crimes. We respectfully request that a special counsel of the highest integrity and independence be appointed and that the special counsel receive a broad and clear mandate for independent action, including the discretionary ability to report to Congress and to the public and protection against termination unless the appointing official finds and certifies to extraordinary improprieties.

Thank you for your prompt consideration and action in response to this request.

Sincerely,

Patrick Leahy, U.S. Senator; Herb Kohl, U.S. Senator; Charles E. Schumer, U.S. Senator; Edward M. Kennedy, U.S. Senator; Dianne Feinstein, U.S. Senator; Richard J. Durbin, U.S. Senator; Joseph R. Biden, Jr., U.S. Senator; Russell D. Feingold, U.S. Senator; John Edwards, U.S. Senator.

U.S. SENATE,

Washington, DC, March 11, 2004.

Hon. ORRIN G. HATCH,
Chairman,
Senate Committee on the Judiciary.

DEAR CHAIRMAN HATCH: A week has passed since the public release of the Report on the Investigation into Improper Access to the Senate Judiciary Committee's Computer System (Mar. 4, 2004) prepared by the Sergeant at Arms of the United States Senate. The Sergeant at Arms' report sets forth in great detail factual findings regarding the improper access of computer files belonging to Democratic staff members of the Senate Committee on the Judiciary (the committee) by two former Republican committee staff members. As explained in the Sergeant at Arms' report, this investigation was initiated in November of last year, shortly after the Wall Street Journal and Washington Times printed articles in which they acknowledged receipt of Democratic staff memoranda.

While it is not our place as members of the committee to decide whether any of the acts described in the Sergeant at Arms' report constitute criminal violations of Federal law, we nevertheless are convinced that this is a very serious matter that needs to be reviewed and considered by the proper authorities at the earliest opportunity. As you know, our goal has always been to approach this investigation in the least politicized manner possible. We had hoped that the committee would debate the proper course of action and arrive at a bipartisan agreement on how to proceed with the information revealed in the Sergeant at Arms' report. However, we are now certain that only a determination by a prosecutor as to whether any laws were violated will bring this matter to a just and timely resolution. We commend your commitment to a thorough investiga-

tion of this matter as it affects the very integrity of our committee.

Sincerely,

Jon Kyl, John Cornyn, Jeff Sessions,
Larry E. Craig, Mike DeWine, Arlen
Specter, Lindsey O. Graham, Charles E.
Grassley, Saxby Chambliss.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, March 12, 2004.

Hon. JOHN D. ASHCROFT,
Attorney General, U.S. Department of Justice,
Washington, DC.

DEAR ATTORNEY GENERAL ASHCROFT: We write to request that the Department of Justice appoint a prosecutor of the highest integrity and independence to investigate, and, if appropriate, prosecute all potential crimes related to the access and dissemination of Judiciary Committee staff files outlined in the attached Report from the Senate Sergeant at Arms. We consider this breach of Senators' privacy to be a matter of the utmost seriousness. While we very much appreciate the fine work of the Sergeant at Arms, we note that the attached Report itself suggests many avenues of additional inquiry that have not been—and indeed could not have been—pursued by this preliminary Senate investigation.

Because of the potential for perceived and actual conflicts of interest, the undersigned members of the Judiciary Committee agree that this matter must be handled by a professional prosecutor who is free from all conflicts and appearances of conflict—or, if appropriate, a special counsel—who has full investigatory, charging and reporting authority; who will conduct a thorough investigation; and who will not be removable from this assignment except in case of extraordinary improprieties. Patrick Fitzgerald, the U.S. Attorney for the Northern District of Illinois, has been given such independence in the investigation of the leak of CIA operative Valerie Plame's identity, and we believe that his mandate should be a model for the mandate of the prosecutor in this case. Indeed, we agree that Mr. Fitzgerald himself would be an ideal candidate for this investigation as well. At a minimum, any special counsel or other prosecutor appointed in this matter should be of Mr. Fitzgerald's integrity and have the same degree of independence.

Sincerely,

CHARLES SCHUMER.
RICHARD J. DURBIN.
EDWARD M. KENNEDY.

SAXBY CHAMBLISS.
MIKE DEWINE.

CONFIRMATION OF JUDGE LOUIS GUIROLA

Mr. LOTT. Mr. President, I am delighted that the Senate unanimously confirmed Judge Louis Guirola by a vote of 92-0 to be a United States District Court Judge for the Southern District of Mississippi. Judge Guirola has been serving our country and the State of Mississippi as U.S. magistrate judge for the Southern District of Mississippi. I have known Judge Guirola for well over 20 years and was pleased when the President nominated him to fill the U.S. District Court judgeship that is being vacated by Judge Walter J. Gex, who is taking senior status. I am pleased that the Senate was able to efficiently do its work of advising and consenting on this nomination in order

to guarantee the smooth operation of our Federal justice system.

Judge Guirola is a 1979 graduate of the University of Mississippi Law School, and he received his undergraduate degree from William Carey College in 1973. He has had a distinguished career in the law over the past quarter of a century and has gained broad experience from the various positions he has held. He has served as an assistant district attorney, an attorney in private practice, an attorney for the Jackson County Board of Supervisors, and an attorney for the Mississippi Highway Department.

Judge Guirola began his Federal service as an assistant U.S. Attorney for the Eastern District of Texas in 1990, and he was named as a U.S. magistrate judge for the Western District of Texas in 1993. He served in this position until 1996, when he returned to Mississippi to become a U.S. magistrate judge for the Southern District of Mississippi, the position he currently holds. He clearly has an extensive knowledge of the Federal court system, and his experience will be a tremendous asset for the country. It is no surprise that the ABA's Standing Committee on the Federal Judiciary has unanimously found Judge Guirola to be "well qualified" to serve as a Federal district court judge.

Judge Guirola has also demonstrated a commitment to education and instruction. He has been an adjunct professor at William Carey College and the University of Southern Mississippi. He also has given lectures and conducted seminars for the U.S. Attorney General's Advocacy Institute, the Federal Bar Association, the Mississippi Bar Association, the Mississippi Law Enforcement Officers Academy, the Texas Department of Public Safety, and the U.S. Probation Office. In addition, he has authored a number of legal articles and scholarly pieces.

Judge Guirola is well-known and respected in his community, State and profession. His nomination has received widespread support in the State of Mississippi because of his reputation for fairness and hard work. I know that Judge Guirola will make an excellent district court judge, and I congratulate him on his confirmation by the Senate.

JUDICIAL CONFIRMATIONS

Mr. LEAHY. Mr. President, last night the Senate confirmed two more Federal judicial nominees of President Bush: Judge Louis Guirola to the Southern District of Mississippi and Neil Wake to the District of Arizona. With these confirmations, the Senate has now confirmed 173 judicial nominees of this President. That is more than during the entire four years of the first term of President Reagan, from 1981 through 1984, and just two fewer than were confirmed in all 4 years of President Clinton's second term in office from 1997 through 2000. We have reduced the number of vacancies in the

Federal courts to 43, the lowest number in more than 13 years.

These two confirmations bring to four the number of judicial nominees confirmed in the first few weeks in session this year. The American people should remember that the Republican Senate leadership in 1996 allowed only 17 judicial nominees of President Clinton to be confirmed all year. I remain confident that with the cooperation of the administration, the Senate this year will be able to match the total from that Presidential election year, the last year of President Clinton's first term. We are well ahead of the pace Republicans achieved in 1996. The four judges confirmed so far this year is four more than were confirmed on this date in 1996.

The two nominees confirmed last night had their hearings this year but two others, J. Leon Holmes and Judge Dora Irizarry, had hearings last year, were reported by the Judiciary Committee last year, and still have not been scheduled for a vote by the Republican leadership. Democrats have been ready to debate and vote on these nominees for many months. They have generated some controversy and will need to be debated before the vote, but there is no Democratic "hold" on either nomination of which I am aware and no Democratic objection to a full and fair debate on each as far as I know.

TERRORIST ATTACKS

Mr. GRAHAM of Florida. Mr. President, yesterday, March 11, 2004, was a solemn day.

Two and a half years ago to the day, 19 terrorists hijacked four airliners and crashed them into the World Trade Center, the Pentagon, and a field in rural Pennsylvania.

It is fitting that we pause today to remember the nearly 3,000 innocent people who lost their lives that day. It is also fitting that we take a moment to remember the responsibilities that we undertook in the aftermath of those horrible events. We in public office undertook a particularly important obligation, as we vowed to take action to prevent terrorist attacks of that magnitude from happening again.

In his speech delivered before a joint session of Congress on September 20, 2001, President Bush put it this way: "Americans are asking, How will we fight and win this war? We will direct every resource at our command—every means of diplomacy, every tool of intelligence, every instrument of law enforcement, every financial influence, and every necessary weapon of war—to the disruption and to the defeat of the global terror network."

Unfortunately, we have not met that commitment.

We now know that the terrorist attacks of September 11 were the result of a sophisticated plot that developed over many months and required coordination among a number of individuals.

If our national intelligence agencies had been better organized and more focused on the problem of international terrorism, this tragedy would have been avoided.

Incredibly, it is now 30 months later, and the basic problems in our national intelligence community that contributed to our vulnerability on 9/11 have not yet been seriously considered, much less resolved.

These problems are not a mystery, they are known weaknesses that simply have yet to be fixed. If we in the Congress do not take action to remedy these weaknesses, we will not be able to avoid accountability for the next attack.

A series of independent commissions and the Joint Inquiry conducted by the House and Senate Intelligence Committees in 2002 have identified a variety of issues that we must address. They fall into four categories:

One, setting priority targets for intelligence collection and analysis.

Director of Central Intelligence George Tenet declared war on al-Qaida in 1998, but few in the CIA—and almost no one in the other agencies that make up our Intelligence Community—responded to his clarion call.

Our national intelligence agencies continued to focus on states, such as Russia, China, Iran and Iraq. Despite Mr. Tenet's call for action, Osama bin Laden al-Qaida was not even near the top of our intelligence priority list on September 11, 2001. It was not until September 12 that they moved to the top of the list.

Part of the problem was that our intelligence community had no formal process for regularly reviewing and updating intelligence priorities to ensure that they accurately reflected the current security environment.

Furthermore, it does not appear that the heads of other intelligence agencies looked to the Director of Central Intelligence for leadership and priority-setting.

Even though George Tenet may have realized that non-state actors like al-Qaida needed more attention, the importance of these groups was not clear to other members of the intelligence community. The head of the National Security Agency, our Nation's electronic eavesdropping agency, was asked if he knew about Mr. Tenet's declaration of war with al-Qaida.

The director of the NSA said that yes, he was aware of Mr. Tenet's statement, but he did not think it applied to him or his organization.

Two, providing strong new leadership for the intelligence community.

Examples like this make it clear that we need to provide strong new leadership for the intelligence community. 9/11 exposed historic tensions within the Intelligence Community, and between intelligence agencies and law enforcement.

We need to empower a Cabinet-level official with the authority to end bureaucratic in-fighting and competition

for resources, as well as ensuring the sharing of information among all of those charged with protecting our homeland security—including first responders at the State and local level.

In many ways, our national intelligence community has resembled, and still resembles, a collection of independently operating actors, rather than a unified team that works together on counterterrorism and other missions.

Before 9/11, there were a number of barriers that prevented information from being shared among various agencies, and while many formal barriers have been removed, many informal ones remain in place.

Our joint, bipartisan congressional inquiry revealed that in the months before the September 11 attacks, our national intelligence agencies collected pieces of information that, taken as a whole, could have been used to disrupt al-Qaida's hijacking plot.

Unfortunately, this information was not shared with all of the right people, and helpful actions were not taken.

The CIA was aware that two terrorists associated with al-Qaida had obtained visas for travel to the United States, but it did not share this information with border protection agencies, or with the FBI, which could have kept an eye on these men once they were in the country.

The FBI was aware that a man arrested in Minnesota might have been planning a suicide hijacking, but it did not share this information with the Federal Aviation Administration, which could have increased security precautions on domestic flights.

Better information sharing between the FBI and CIA, as well as other intelligence agencies, could have increased the intelligence community's overall awareness of terrorist activities. And better information sharing between the intelligence community and all the various agencies who contribute to our homeland security could have helped these agencies move to an appropriate level of alertness. We have an obligation to make sure that better information sharing takes place, and the consequences of failure could be very high.

Three, setting priorities for limited resources.

A Cabinet-level official with authority over intelligence could also set priorities for limited intelligence resources.

The Intelligence Community did not adapt quickly enough after the end of the Cold War, during which we had come to rely more on satellites than on human assets—spies. There was no collective sense of importance within the Intelligence Community, including the Department of Defense, and as a result, investments in research and development—which were once a priority—suffered slippage.

Nearly all intelligence agencies faced significant staff shortages prior to 9/11, and this had a serious impact on their effectiveness. At the Central Intel-

ligence Agency, for example, many critical counterterrorism personnel were required to work long hours without relief. This obviously made these personnel less effective, and had a very negative effect on their morale.

Other intelligence agencies, such as the National Security Agency and the Federal Bureau of Investigation, faced similar staffing problems. In particular, these agencies lacked sufficient numbers of analysts and language specialists to support agents working in the field.

When agency directors tried to create solutions to these personnel problems, they were often unable to implement them.

The lack of clear counterterrorism priorities made it difficult for managers to reassign personnel from other areas. Moving money was almost as difficult as moving people, since intelligence community managers have limited budget authority.

Incredibly, these problems are still with us today. While all of our intelligence agencies have increased in hiring and training of counterterrorism personnel, many of them continue to face resource and personnel problems. Even relatively small shifts of resources still must go through a lengthy approval process, and it is not always possible to assign enough people to important areas.

Prior to 2001, many CIA officials knew that more agents were needed in Afghanistan, but they were unable to move resources away from other priorities. By giving our intelligence agencies more budget flexibility, we can empower them to address problems further in advance, and begin thinking about solutions, instead of waiting for a crisis to occur before taking any action.

Long term planning is also constrained by the process we use for funding our intelligence agencies. Instead of providing them with a sustained, stable source of funding, we insist on giving them relatively small budget allocations, and then increasing this through the use of supplemental appropriations bills. Counterterrorism programs have relied heavily on these supplemental appropriations for several years, and this continues today in spite of repeated claims that we have increased our focus on counterterrorism.

If we wish to get the most out of our investment in counterterrorism, we must make it possible for Intelligence Community directors and managers to engage in long term planning, rather than simply jumping from one crisis to the next.

Of course, increased flexibility must be accompanied by increased oversight. As hard as it is for most Americans to believe, the Intelligence Community has only a vague idea of how much money it spends on counterterrorism.

Most agencies do not regularly examine how much they spend on counterterrorism, and those that do use inconsistent accounting methods—and often base their data on rough estimates.

If we do not know how much we are spending on counterterrorism priorities, it will obviously be very hard for us to see if our investment is being spent wisely. A cost-benefit analysis from an independent agency would be very helpful in this regard, but so far there have been no serious efforts to undertake such an effort.

Four, establishing a competent domestic counterterrorism capability.

Finally, we must begin establishing a competent domestic counterterrorism capability.

The FBI has looked at its intelligence-gathering role through the prism of a law-enforcement agency. If asked how many suspected terrorists or terrorist sympathizers are estimated to live in any given major American city, the FBI would respond with the number of open investigative files its field office had there.

Americans have to decide what we expect of our domestic intelligence-gathering capability—and how much intrusion into our personal lives we are willing to accept.

Then we must make a choice: Can we accomplish our goal with an agency that has a mixed law-enforcement and intelligence-gathering mission, or should we create a separate domestic intelligence-gathering unit such as Great Britain's MI5?

For the immediate future, our national security interests are best served by acting to make the FBI as effective as it can be. However, we must also consider our other options and decide if we can do better.

The FBI continues to perform its intelligence mission in a commendable fashion, but detecting and disrupting terrorist plots before they can be executed requires a very different approach than apprehending perpetrators of crimes that have already taken place.

If we look around the world, we can see that there are many different models for domestic intelligence gathering, and many different models for domestic law enforcement. Here in America we must decide what sort of institution best fit our needs and circumstances, and as these circumstances change, we should not be afraid to make our institutions change as well.

This must first begin with a debate over the best possible structure for our domestic intelligence and law enforcement programs. I am sorry to say this debate has not yet taken place.

The problems that I have discussed today need to be fixed as soon as possible. Ignoring them will not make them go away. Old habits, differences in agency culture, and bureaucratic inertia are not acceptable excuses for procrastination and delay.

If we do not address them quickly and effectively, we will be blind to emerging threats, and we will leave ourselves vulnerable to future attacks.

On the other hand, if we can repair these weaknesses then we can give the

hard-working men and women of our Intelligence Community the tools they need to help prevent such attacks from taking place.

As we reflect on the horrific events that stunned our Nation two and a half years ago, and pay tribute to those who lost their lives, we must recommit ourselves to our responsibility to do everything we can to prevent such events from happening again.

If there is another terrorist attack in our country, the American people will look to their elected leaders and ask us what we learned from September 11, and how that information was used to protect them.

We must be able to tell both those who lived—and those who died—that we did everything we could.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In Dix Hills, NY, in March 2000, a young man's remains were found in a plastic container in a park in Queens. The teen's social security number and racial and anti-homosexual epithets were written on the skull with a marker.

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

LOWER OIL PRICES

Mr. LEVIN. Mr. President, last night the Senate voted to accept the amendment I offered with Senator COLLINS to the fiscal year 2005 budget resolution to lower oil prices by placing over 50 million barrels of oil on the open market rather than depositing it in the Strategic Petroleum Reserve—SPR—as the administration had planned. I would like to note for the record that this amendment already is accomplishing its objective of lowering oil prices. At 11:30 a.m. this morning, just hours after the news of this amendment reached the markets, oil prices fell. According to Reuters, "NYMEX crude oil futures fell more than \$1 Friday morning after a U.S. Senate vote seeking to bar more shipments of crude oil to the U.S. emergency stockpile."

This amendment is a win-win for the American people. Low supplies of oil in private inventories are a main reason for high prices. With more oil on the open market, prices for gasoline, heating oil, jet fuel and diesel fuel will de-

cline and consumers will benefit. At the same time, our cities and States will gain from additional funds for homeland security.

The amendment directs the Department of Energy—DOE—to cancel delivery of 53 million barrels of crude oil currently planned for deposit into the SPR and to sell this oil on the open market. By selling oil on the open market, the Federal Government would generate over \$1.7 billion in additional revenues. The amendment would allocate a portion of the \$1.7 billion for deficit reduction and place the remainder in a reserve fund to be used for more homeland security funding for the States.

I will continue to work within the Congress to persuade—or require, if necessary—the Administration to suspend shipments of oil to the SPR to lower prices further.

I ask unanimous consent that the attached article on the drop in oil prices due to the Senate's action last night be printed in the RECORD.

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

[From Reuters News Service, Mar. 12, 2004]
NYMEX OIL FALLS OVER \$1 ON POSSIBLE SPR
SHIPMENTS HALT

NEW YORK.—NYMEX crude oil futures fell more than \$1 Friday morning after a U.S. Senate vote seeking to bar more shipments of crude oil to the U.S. emergency crude stockpile.

The move, which aims to reduce oil prices by keeping more supply in the market, countered, for the moment, fears that oil facilities were once again at risk after Thursday's terror bomb attacks in Madrid killed nearly 200 people and injured more than 1,400 others.

NYMEX crude for April delivery fell as low as \$35.30 a barrel, down \$1.48 on the day, before bouncing back a bit to \$35.40.

NOMINATION OF DR. MARK MCCLELLAN TO BE ADMINIS- TRATOR OF CMS

Mr. KENNEDY. I am pleased to support the nomination of Dr. Mark McClellan to be the Administrator of the Center for Medicare and Medicaid Services. There is no more important agency in providing quality health care for the American people, and Dr. McClellan is superbly qualified for this important post.

Dr. McClellan has served with distinction in the Treasury Department during the Clinton administration and as a health policy advisor and commissioner of FDA in the Bush administration. He has immense intellectual gifts, a distinguished background as an economist and physician, and tremendous energy, commitment, and integrity. I am particularly pleased that he is an adopted son of Massachusetts, having received his M.D. from the Harvard Medical School.

Mark and I have worked closely on a number of issues during his tenure at the White House and the FDA. While we certainly don't always agree, I have

always felt that we were working toward the same goals of quality health care. At the FDA, he was committed to modernizing the agency to assure that it brought the best scientific tools of the new century of the life sciences, to regulating the drug development process, and speeding safe and effective products to market. He made a tough call to protect the health of women in his decision on silicone breast implants, and he has been aggressive in his attempts to remove dangerous dietary supplements, most notably Ephedra, from the market. He has been particularly generous with his time in meeting with the Massachusetts device and biotechnology industries, so that he could understand their concerns and that they could gain a deeper appreciation of the most productive way to work with the FDA.

At CMS, Mark will have to implement the deeply flawed Medicare bill—a challenging task under the best of circumstances. I was encouraged by his comments at his confirmation hearing indicating that, unlike others in the Bush administration, he understands the need to maintain Medicaid as an individuals entitlement guaranteeing health care for the poorest of the poor and to end the pernicious policy of overpaying Medicare HMOs because they enroll the healthiest senior citizens.

In summary, I am pleased to support Dr. McClellan's nomination. He is a superb choice to head a critically important agency.

PRESIDENT BUSH AND THE ASSAULT WEAPONS BAN

Mr. LEVIN. Mr. President, last week, the Senate passed a 10-year extension of the assault weapons ban. We passed the assault weapons ban in 1994 because law enforcement agencies asked for it, and we extended it last week at their urging.

Studies have shown that the assault weapons ban works. According to National Institute of Justice statistics reported by the Brady Campaign to Prevent Gun Violence, gun trace requests for assault weapons declined 20 percent in the first calendar year after the ban took effect, dropping from 4,077 in 1994 to 3,268 in 1995. This statistic indicates that fewer of these weapons were making it onto the streets.

As my colleagues know, the 1994 law banned the production of certain semi-automatic assault weapons and high-capacity ammunition magazines. The 1994 law banned a list of 19 specific weapons as well as a number of other weapons incorporating certain design characteristics such as pistol grips, folding stocks, bayonet mounts, and flash suppressors. This law should not be allowed to sunset on September 13, 2004. This law does not need to sunset. Our Nation's law enforcement officers support this legislation, the President even has expressed his support, and the Senate passed an extension.

If the law is not reauthorized, the production of assault weapons can legally resume. Restarting production of these weapons will increase their number and availability and inevitably lead to a rise in gun crimes committed with assault weapons. The Senate has shown bipartisan majorities for renewing the assault weapons ban. President Bush should demand that Congress act this year to extend the ban.

GAO FEBRUARY COMPETITIVE SOURCING REPORT

Mr. AKAKA. Mr. President, I have repeatedly voiced my opposition to the Administration's aggressive outsourcing agenda which I believe comes at too high a cost to Federal workers and to Government accountability and cost-effectiveness. My concerns are confirmed by a February 2004 General Accounting Office, GAO, report entitled, "Competitive Sourcing: Greater Emphasis Needed on Increasing Efficiency and Improving Performance," GAO-04-367. I highly recommend this report to my colleagues.

The GAO reviewed the Federal outsourcing agenda at seven agencies: the Departments of Defense, Health and Human Services, Interior, Agriculture, Education, and Veteran's Affairs. These agencies contain 84 percent of Federal jobs eligible for outsourcing. The administration has identified 304,800 Federal jobs for outsourcing at the Departments of Defense, Health and Human Services, and Interior alone, which represent nearly 42 percent of the total workforce of these agencies.

GAO found that the examined Federal agencies are focusing more on implementing Office of Management and Budget, OMB, mandates on the number of competitions at the expense of cost-efficiency. In 2001, the administration had established the goal of privatizing up to 50 percent of federal jobs. However on July 23, 2003, the OMB's Administrator for Procurement Policy, Angela Styles, testified before the Governmental Affairs Committee that contracting quotas would be terminated and replaced by agency-specific plans.

This shift in policy came after repeated criticisms from both sides of the aisle in the Senate and the House of Representatives. For example, the FY03 Transportation, Treasury, and General Government Appropriations Act severely restricted the use of contracting quotas as a result of strong bipartisan opposition.

There are important steps we can take now to improve the cost-effectiveness and fairness of public-private competitions. As ranking member of the Governmental Affairs Financial Management Subcommittee and the Senate Armed Services Readiness Subcommittee, I am working to improve the financial transparency and cost-savings of Federal outsourcing policies. Federal contracts should be required to generate at least 10 percent savings

over agency costs. The Federal Procurement Data System, FPDS, reports that the Federal Government spent approximately \$250 billion on Federal contracts in 2002. The Senate passed FY04 Omnibus Appropriations Act would have required a minimum of 10 percent cost-savings before Federal jobs are contracted out. Unfortunately, this measure was stripped from the FY04 Omnibus Appropriation Act.

The GAO report reaffirms the need for a minimum cost-savings in Federal procurement policies. By law, the Department of Defense, DOD, is required to achieve cost-savings before jobs are contracted out. DOD is the largest buyer of contracted services and according to recent FPDS data spent over \$164 billion in 2002.

We can also improve fairness in public-private competitions. Before decisions are made to contract out Federal work, agencies need the personnel, funding, and technology to ensure that the work is performed in a timely and cost-effective manner. We cannot expect Federal employees to oversee billions of dollars of contracts without these resources, which is why I was disappointed to learn that GAO found that six out of the seven agency offices examined had only one or two employees overseeing outsourcing activities.

Moreover, we should level the playing field so that Federal workers have the right to appeal the loss of a competition just as contractors do today. Fair competition must ensure that affected employees have proper appeals and protest rights. Unlike Federal employees, Federal contractors have the right to protest OMB Circular A-76 decisions before the GAO. I am disappointed that the FY04 Omnibus Appropriation Act stripped a provision that would have provided Federal workers the same appeal rights as contractors.

I look forward to continuing to work with my colleagues to ensure that Federal procurement policies offer the best return on the dollar and are fair to Federal workers. The results of this GAO review reaffirms that there is more work to be done in this area.

WISCONSIN'S ACQUISITION OF A WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAM

Mr. FEINGOLD. Mr. President, I was very happy to learn this week that Wisconsin will be one of 12 new States to receive funding for a full-time Weapon of Mass Destruction Civil Support Team—WMD-CST—this year and I want to congratulate the Wisconsin National Guard for their efforts to secure a full-time team. These teams, made up of members of the National Guard, play a vital role in assisting local first responders in investigating and combating the new threat we face in the 21st century. During the 2002 Baseball All-Star Game in Milwaukee, WI had to call in Minnesota's civil support team because Wisconsin did not

yet have a full-time team. I am pleased that Wisconsin will now have its own capability to quickly respond and protect its citizens from possible terrorist threats.

I have worked for years now to assure that all states and territories have at least one of these teams and I want to thank my colleagues on both sides of the aisle for helping me in this endeavor. We have had great success. The Bob Stump National Defense Authorization Act for Fiscal Year 2003 made it law that all states and territories have at least one WMD-CST and Congress authorized and appropriated the funds to establish 12 of the 23 teams during fiscal year 2004. Now we must make sure that the last 11 teams are funded in fiscal year 2005.

ADDITIONAL STATEMENTS

SALUTING DELTA SIGMA THETA SORORITY, INC.

• Mr. CORZINE. Mr. President, I rise today to recognize the women of Delta Sigma Theta Sorority, Inc., a service sorority dedicated to promoting sisterhood, scholarship and service, for their efforts in the battle against HIV/AIDS.

According to statistics from the U.S. Department of Health and Human Services, as of the end of 2002, an estimated 42 million people worldwide—38.6 million adults and 3.2 million children younger than 15 years of age—were living with HIV/AIDS. Approximately 70 percent of these people, 29.4 million, live in Sub-Saharan Africa; another 17 percent, 7.2 million, live in Asia. Of the estimated 15,603 AIDS-related deaths in the United States in the year 2001, approximately 52 percent were among African Americans and Hispanics. Racial and ethnic minority populations constitute more than 57 percent of the more than 800,000 cases of AIDS reported in the United States since the epidemic was discovered in 1981. Further, the Centers for Disease Control reports that as of December 2001, African Americans and Hispanics represented 52 percent of AIDS cases reported among males and 78 percent of those in females. Fifty-eight percent of all women reported living with AIDS that year were African Americans and 20 percent were Hispanic. African American children represented 58 percent of all pediatric cases. Of the 175 pediatric AIDS cases reported in 2001, 139, 79 percent, were African Americans and Hispanic. AIDS is one of the leading cause of death among African-American men ages 24 to 44. Recognizing the urgency of the issue, Delta Sigma Theta Sorority, Inc. has taken a leadership role in educating the global community on how to decrease the AIDS pandemic, thus promoting health and wellness.

Delta Sigma Theta's effort focuses on an intense HIV/AIDS Education Campaign beginning with encouraging local Delta chapters to implement internal

education awareness workshops. This enabled the sorority members to better understand the drastic impact HIV/AIDS is having on African American women of all ages. In addition, for the past 3 years, chapters have participated in the sorority's International Day of Service for HIV/AIDS, a public awareness program in which a day is committed to providing HIV/AIDS education and prevention services to communities around the world.

On Saturday, March 13, 2004, the more than 900 chapters of the sorority located in 44 States, the District of Columbia, and in 6 countries abroad will conduct forums and seminars, provide counseling and testing, raise funds for research and services, and petition lawmakers to enact legislation that effectively addresses HIV/AIDS issues. In my State of New Jersey alone, the Central Jersey Alumnae chapter will sponsor a community forum entitled "Why Not Me? The Affect of HIV/AIDS on Our Families." The event will include key sessions for citizens of diverse age groups, helping participants to clarify perceptions/myths about HIV/AIDS and encouraging them to speak openly about the impact of the disease on their communities. There also will be an open general session in which TEEN PEP of Somerset County will perform some powerful and thought-provoking pieces.

The Montclair Alumnae chapter will provide direct services to the Academy Street Firehouse After-School Project. As part of the AIDS Resource Foundation for Children in Newark, the Academy Street Firehouse addresses educational, vocational, social and medical needs of children and teens who are dealing with the loss of a parent due to AIDS. Approximately 50 children between the ages of 7 and 17 will receive services.

The North Jersey Alumnae chapter will hold three seminars on topics related to the HIV/AIDS: (1) The Secret Lives of AIDS; (2) The role of the church in the fight against HIV/AIDS; and (3) How individuals can protect themselves. There will be free testing and counseling. Speakers will include community activists and church leaders. There also will be a dramatization by the "POWER" group, a youth organization that teaches about HIV/AIDS and its affects.

The Rancocas Valley Alumnae chapter will partner with the Township of Willingboro to present workshops for men, women and children on (1) HIV/AIDS prevention; (2) Functioning as a person living with HIV/AIDS; (3) Caring for people with AIDS; and (4) Volunteerism with HIV/AIDS organizations. The day will be filled with a variety of activities such as panel discussions, videos, dramatic presentations, praise dancers, and step teams.

The Trenton Alumnae chapter along with the Rho Epsilon and Tau Kappa collegiate chapters will host Trenton's 2nd Annual Aids Walk. The Walk will begin at a local school and end at City

Hall where the chapters will host a rally and speakers who will discuss the impact of HIV/AIDS. Donations will be collected to benefit the Rainbow House, a nonprofit organization that provides housing for children and adults living with HIV/AIDS in the city of Trenton.

The membership of Delta Sigma Theta Sorority, Inc. provides an extensive array of public service programs and projects through the sorority's Five-Point Program Thrust: Economic, Development, Educational Development, International Awareness and Involvement, Physical and Mental Health, and Political Awareness and Involvement. The "International Day of Service" is an activity of the sorority's mental and physical health focus "Summit V: Let It Continue—Heal and Healing: Promoting Health and Wellness on HIV/AIDS." Summit V is a means through which Deltas throughout the world assist in informing and educating the public and families about women's health issues, develop community partnerships to help inform the public and provide access to services; provide leadership for supporting policy development and promoting and enforcing legal requirements that protect the health and safety of women; and support research and political efforts to gain new insights and innovate solutions to health problems impacting women.

Delta Sigma Theta Sorority was founded on the campus of Howard University in 1913 by 22 visionary college women. Notable members include our colleague in the other Chamber, Congresswoman STEPHANIE TUBBS JONES of Ohio, civil rights pioneer and Congressional Gold Medal recipient Dr. Dorothy I. Height, and former Labor Secretary Alexis Herman.

I invite my colleagues to join me in saluting the women of Delta Sigma Theta Sorority, Inc., for their global efforts in the battle against HIV/AIDS, and I urge fellow Americans to participate in the Delta Sigma Theta Sorority, Inc., "International Day of Service" projects in their communities on March 13, 2004.●

IN REMEMBRANCE OF PAMELA LAMAR JORDAN

● Mr. LEVIN. Mr. President, I take this opportunity to pay tribute to Pamela Lamar Jordan, a tireless advocate for families and the plight of children. She was committed to serving the needs of her community and to improving the quality of life for young people in Saginaw. Pamela received numerous community service awards throughout her life. She will be missed by those whose lives she has touched.

Pamela Lamar Jordan was born in Saginaw, Michigan on June 24, 1961. She is a graduate of Arthur Hill High School and was in pursuit of her BSW at Saginaw Valley State University. She was a member of the Word of Faith International Ministries, where she

worked with the Youth Department. She was also a 1999 graduate of the Spoken Word School of Ministry.

In 1995, Pamela founded the New Alternatives Youth Service Center in Saginaw, Michigan. The Center's purpose is to educate young people and to provide an alternative to drugs, gangs, and violence. Pamela was also a mentor with the Family Youth Initiative, which is affiliated with the Bay Area Substance Abuse Coordinating Agency.

Pamela was also the founder of the Saginaw Sister-2-Sister Spirit of Excellence Pageant. Sister-2-Sister promotes abstinence and works to decrease the rate of pregnancy among teenage girls in the Saginaw community. Pamela believed this program helps local teenagers better understand themselves, and provides them with the appropriate information necessary to make healthy life choices.

Pamela Lamar Jordan passed away at the age of 42 on March 7, 2004. She was a woman of great faith who was devoted to her family and to her community. Pamela is mourned by her family, the members of her church, and many people across my home state of Michigan. Pamela is survived by her husband Cornelius Jordan and her four daughters: Melony, Janey, Terri and Brianna.

This is, indeed, a great loss to all who knew her or for those who have benefitted from her work. I know my colleagues will join me in paying tribute to the life and work of Pamela Lamar Jordan. I hope her family takes comfort in knowing that her legacy will stand as an inspiration for generations to come.●

STAFF SERGEANT RONALD W. HOSKINS

● Mr. TALENT. Mr. President, I commend Staff Sergeant Ronald W. Hoskins of Fort Leonard Wood, MO, for over 20 years of service in the U.S. Army. He began his service in March of 1983, when he attended Military Police training and subsequently moved to Dugway Proving grounds, Utah to act as a military police desk sergeant.

In 1984 he was reassigned to Germany where he graduated from Military Police Investigations School at the Combined Arms Training Center. In 1987 he was promoted to Sergeant.

In late 1987 Sergeant Hoskins moved back to the United States where he served in both Texas and Alabama, until he was assigned to the 142nd Military Police Company in Yongstang, Korea, in 1990.

In 1991 Sergeant Hoskins began working as an investigator and evidence custodian at Fort Bliss, Texas. He served in this position until 1995 when he returned to Yongstang.

In 1996 He was assigned to the 978th Military Police Company, and during this tour was promoted to staff sergeant while he served as a military police patrol supervisor.

Staff Sergeant Hoskins was next assigned to Stuttgart, Germany. He developed an emergency vehicles operator's course that was adapted throughout the United States Army in Europe.

Over his long career Staff Sergeant Ronald Hoskins has received many awards and decorations, including the meritorious Service Medal, Army Commendation Medal with four oak leaf clusters, Army Achievement Medal with four oak leaf clusters, Army Good Conduct Medal, National Defense Service Medal with Bronze Star, Non-commissioned Officer Professional Development Ribbon, Army Service Ribbon with numeral two device, Overseas Service Ribbon with numeral four device and Drivers Badge.

I congratulate Staff Sergeant Hoskins on his lengthy and dedicated career in the United States Army. I also want to recognize the efforts of his wife Susan without whom none of these accomplishments would be possible. Moreover, I extend to Staff Sergeant Haskins my profound appreciation for his service to the nation. I am honored to share his success with my colleagues and I wish him and his family all the best for the future.●

GIRL SCOUTS OF THE USA

● Mr. HATCH. Mr. President, I rise today to pay special tribute to an outstanding group of public servants—the Girl Scouts of the USA—who today celebrate the 92nd birthday of their organization.

Founded in 1912 by Juliette Gordon Low in Savannah, GA, Girl Scouts is the world's pre-eminent organization dedicated solely to girls—all girls—where they can build character and skills for success in the real world. Partnered with committed adult volunteers, Girl Scouts cultivate their full individual potential through learning and experience. The qualities they develop in Girl Scouting—leadership, values, social conscience, and conviction about their own self-worth—serve and benefit them all their lives.

Nationwide today there are more than 3.7 million Girl Scouts—2.8 million girl members and 942,000 adult members. Through its membership in the World Association of Girl Guides and Girl Scouts, Girl Scouts of the USA is part of a worldwide family of 8.5 million girls and adults in 140 countries.

Today's Girl Scouts receive interactive training and experience in such areas as: leadership; math; science and technology; diversity; financial literacy; health, fitness and sports; environmental education; the arts; global awareness; and safety. Our children's safety is a matter of great concern to me. You may remember a wave of child abductions not too long ago, including the kidnapping of Elizabeth Smart in my own home State of Utah, which highlighted the need to enhance our ability to protect our Nation's children. Last year, I introduced the PRO-

TECT Act of 2003, an Act to prevent child abduction and the sexual exploitation of children, which was signed into law by President Bush in April. This legislation included the AMBER Alert system program, which has proven to be a valuable tool in the rescue of abducted children. AMBER Alert systems are critical to successful search and recovery efforts because they enable law enforcement authorities to galvanize entire communities to assist in the safe recovery of child victims.

Elizabeth's disappearance raised awareness of this type of crime nationwide. Our entire Nation rejoiced with the Smart family after Elizabeth was found alive and reunited with her loved ones. Her discovery, facilitated by everyday citizens who had followed this case, demonstrates the importance of getting information about these disappearances out to the public quickly, and what accomplishments can be achieved when communities partner together.

Today, Girl Scouts of Utah will be celebrating the miracle of Elizabeth Smart's return to her family, and the Girl Scouts of the USA's 92nd birthday, by organizing a statewide safety awareness campaign—Partners In Safety. Ed and Lois Smart, Elizabeth's parents, are the honorary chairs of this campaign. Although today kicks off an ongoing focus on safety rather than just a one-day event, Utah communities are invited to open house events on that date. Currently there are more than 25 open house locations in the state of Utah; and a variety of organizations state-wide have enlisted to participate as community sponsors in company with law enforcement and local governments. There will be a variety of safety-related activities at each site, and each participating agency will have a pledge poster so everyone in the community can sign and pledge safety on behalf of those they love.

We all care about the safety of our youth. The goal of Partners In Safety is to bring us all together to deliver the message of safety. I encourage everyone dedicated to safety to pledge to make a difference in your community by reaching the youth you know—talk to your children, grandchildren, students, teammates, troops, packs and church groups.

Begun by Ogden volunteers, Girl Scouts of Utah has been in existence since 1920 and has been committed to principles of pluralism, respect, and community service since inception. Utah Girl Scouts have delivered handmade quilts to hospitals around Utah, decorated Christmas trees for the Festival of Trees, organized and attended hundreds of community service projects, increased their knowledge of finance during the Girl Scout cookie sale, learned about themselves and others, gained more respect for diversity, and participated in initiatives in science, sports, leadership, environmental education, and outdoor exploration. Recently, Girl Scouts of Utah

was named a proud recipient of the 2004 Martin Luther King, Jr. Drum Major Award from the Utah Human Rights Commission in recognition of their steadfast devotion to diversity. Utah Girl Scouts have gotten a jump start on their way to becoming happy, committed, and resourceful citizens.

Throughout its long history, Girl Scouts experienced many milestones made possible by the strength and dedication of countless farsighted individuals—mostly volunteers—who tirelessly served girls and promoted Girl Scouting. We simply have no greater resource than our children; they represent our Nation's future. I commend the Girl Scouts of the USA for their tireless efforts on behalf of our children and families.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, treaties, and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 11:15 a.m., a message from the House of Representatives, delivered by one of its reading clerks, announced that the speaker has signed the following enrolled bill:

H.R. 3915. An act to provide for an additional temporary extension of programs under the Small Business Act and the Small Business Investment Act of 1958 through April 2, 2004, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2207. A bill to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services.

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-6679. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency blocking property of persons undermining democratic processes or institutions in Zimbabwe that was declared in Executive Order 13288 or March 6, 2003; to the Committee on Banking, Housing, and Urban Affairs.

EC-6680. A communication from the General Counsel, National Credit Union Administration, transmitting, pursuant to law, the report of a rule entitled "12 C.F.R. Parts 703 and 704, Investment and Deposit Activities; Corporate Credit Unions" received on March 8, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC-6681. A communication from the Secretary of Commerce, transmitting, the Department of Commerce's Performance and Accountability Report for fiscal year 2003; to the Committee on Commerce, Science, and Transportation.

EC-6682. A communication from the Secretary of Homeland Security, transmitting, a draft of proposed legislation relative to fiscal year 2005 appropriations for the United States Coast Guard and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-6683. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "FNVSS No. 213, Response to Campbell Petition" (RIN2127-AJ15) received on March 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6684. A communication from the Attorney Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Federal Motor Vehicle Standards; Child Restraint Systems; Interim Final Rule on Seat-Mounted Vests" (RIN2127-AI88) received on March 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6685. A communication from the Regulatory Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Transportation of Household Goods; Consumer Protection Regulations; Interim Final Rule; Technical Amendments" (RIN2126-AA32) received on March 9, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6686. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Safety/Security Zone Regulations: Three Mile Island Generating Station, Susquehanna River, Dauphin County, Pennsylvania [COTP Philadelphia 03-007]" (RIN1625-AA00) received on March 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6687. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations (Including 3 Regulations): [CGD09-04-003], [CGD08-04-011], [CGD05-04-041]" (RIN1625-AA09) received on March 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6688. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Regulations: Commercial Boulevard Bridge (870), Atlantic Intracoastal Waterway, mile 1059.0, Lauderdale-by-the-Sea, Broward County, FL. [CGD07-02-17]" (RIN1625-AA09) received on March 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC-6689. A communication from the Director, Fish and Wildlife Service, Department of

the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Listing the San Miguel Island Fox, Santa Rosa Island Fox, Santa Cruz Island Fox, and Santa Catalina Island Fox as Endangered; Final Rule" (RIN1018-AI28) received on March 3, 2004; to the Committee on Energy and Natural Resources.

EC-6690. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Maryland Regulatory Program" (MD-051-FOR) received on March 3, 2004; to the Committee on Energy and Natural Resources.

EC-6691. A communication from the Chair, Good Neighbor Environmental Board, transmitting, pursuant to law, a report relative to children's environmental health in the U.S.-Mexico border region; to the Committee on Environment and Public Works.

EC-6692. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Alabama; Redesignation of Birmingham Ozone Nonattainment Area to Attainment for Ozone" (FRL#7634-9) received on March 11, 2004; to the Committee on Environment and Public Works.

EC-6693. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Massachusetts: Final Authorization of State Hazardous Waste Management Program; Revisions; State-Specific Modification to Federal Hazardous Waste Regulations, pursuant to ECOS Program Proposal; Extension of Site-Specific Regulations for New England Universities' Laboratories XL Project" (FRL#7634-4) received on March 11, 2004; to the Committee on Environment and Public Works.

EC-6694. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Idaho: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL#7634-3) received on March 11, 2004; to the Committee on Environment and Public Works.

EC-6695. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Arizona: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL#7633-2) received on March 11, 2004; to the Committee on Environment and Public Works.

EC-6696. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revisions to Regulations for General Compliance Activities and Source Surveillance" (FRL#7635-9) received on March 11, 2004; to the Committee on Environment and Public Works.

EC-6697. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities; Puerto Rico" (FRL#7634-2) received on March 11, 2004; to the Committee on Environment and Public Works.

EC-6698. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report entitled Fiscal Year 2003 Annual Federal Equal Op-

portunity Recruitment Program Report; to the Committee on Governmental Affairs.

EC-6699. A communication from the Acting Director, Office of Management, Budget, and Evaluation, Department of Energy, transmitting, pursuant to law, a report relative to the Department's activities not inherently governmental in nature; to the Committee on Governmental Affairs.

EC-6700. A communication from the Secretary, Mississippi River Commission, Department of the Navy, transmitting, pursuant to law, a report under the Government in Sunshine Act for the Mississippi River Commission; to the Committee on Governmental Affairs.

EC-6701. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending March 31, 2002; to the Committee on Governmental Affairs.

EC-6702. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2001; to the Committee on Governmental Affairs.

EC-6703. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-199, "Government Employer-Assisted Housing Program Teacher, Police Officer, Firefighter, and Emergency Medical Technician Incentive Amendment Act of 2003"; to the Committee on Governmental Affairs.

EC-6704. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-369, "Emmas Rehabilitation Project Real Property Exemption Act of 2004"; to the Committee on Governmental Affairs.

EC-6705. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the Police Corps and Law Enforcement Education Calendar Year 2002 Annual Report to Congress; to the Committee on the Judiciary.

EC-6706. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, a copy of the Report of the Proceedings of the Judicial Conference of the United States for September/October 2001; to the Committee on the Judiciary.

EC-6707. A communication from the Administrator, Small Business Administration, transmitting, a report relative to minority small business and capital ownership development; to the Committee on Small Business and Entrepreneurship.

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. GREGG (for himself and Mr. ENSIGN):

S. 2207. A bill to improve women's access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services; read the first time.

By Mr. ROCKEFELLER (for himself, Mr. BOND, and Mr. BUNNING):

S. 2208. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reduce the amounts of reclamation fees, to modify requirements relating to transfers from the Abandoned Mine Reclamation

Fund, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida):

S. 2209. A bill to authorize water resources projects for Indian River Lagoon-South and Southern Golden Gates Estates, Collier County, in the State of Florida; to the Committee on Environment and Public Works.

By Mr. LEVIN (for himself and Mr. COLEMAN):

S. 2210. A bill to restrict the use of abusive tax shelters and offshore tax havens to inappropriately avoid Federal taxation, and for other purposes; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 2211. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize and reform the Abandoned Mine Reclamation Program, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself, Mr. BAYH, Mrs. DOLE, and Mr. GRAHAM of South Carolina):

S. 2212. A bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 2213. A bill to amend part A of title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being; to the Committee on Finance.

By Mr. BURNS:

S. 2214. A bill to designate the facility of the United States Postal Service located at 3150 Great Northern Avenue in Missoula, Montana, as the "Mike Mansfield post office"; to the Committee on Governmental Affairs.

By Mr. REED (for himself, Mr. DEWINE, Mrs. CLINTON, and Mr. SMITH):

S. 2215. A bill to amend the Higher Education Act of 1965 to provide funds for campus mental and behavioral health service centers; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HOLLINGS (for himself, Ms. SNOWE, Mr. LAUTENBERG, Mr. CARPER, Mr. BIDEN, Mrs. BOXER, Mr. SCHUMER, Mr. KENNEDY, and Mr. BREAUX):

S. 2216. A bill to provide increased rail transportation security; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST:

S. 2217. A bill to improve the health of health disparity populations; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. GRAHAM of Florida (for himself, Ms. SNOWE, Mr. GREGG, Mr. DODD, Mr. JEFFORDS, Mr. BREAUX, Mr. FRIST, and Mr. ENZI):

S. Res. 320. A resolution designating the week of March 7 through March 13, 2004, as "National Patient Safety Awareness Week"; considered and agreed to.

By Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mrs. FEINSTEIN):

S. Res. 321. A resolution recognizing the loyal service and outstanding contributions of J. Robert Oppenheimer to the United States and calling on the Secretary of Energy to observe the 100th anniversary of Dr. Oppenheimer's birth with appropriate pro-

grams at the Department of Energy and the Los Alamos National Laboratory; to the Committee on Energy and Natural Resources.

ADDITIONAL COSPONSORS

S. 1180

At the request of Mr. SANTORUM, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1180, a bill to amend the Internal Revenue Code of 1986 to modify the work opportunity credit and the welfare-to-work credit.

S. 1703

At the request of Mr. SMITH, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1703, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for expenditures for the maintenance of railroad tracks of Class II and Class III railroads.

S. 1704

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 1704, a bill to amend the Public Health Service Act to establish a State family support grant program to end the practice of parents giving legal custody of their seriously emotionally disturbed children to State agencies for the purpose of obtaining mental health services for those children.

S. 1792

At the request of Mr. DOMENICI, the names of the Senator from Nevada (Mr. REID), the Senator from Idaho (Mr. CRAPO) and the Senator from Georgia (Mr. MILLER) were added as cosponsors of S. 1792, a bill to amend the Internal Revenue Code of 1986 to provide the same capital gains treatment for art and collectibles as for other investment property and to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literary, musical, artistic, or scholarly compositions created by the donor.

S. 1802

At the request of Mr. ENZI, his name was added as a cosponsor of S. 1802, a bill to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians.

S. 1807

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of 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.

S. 2011

At the request of Mr. HAGEL, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 2011, a bill to convert certain temporary Federal district judgeships to permanent judgeships, and for other purposes.

S. 2186

At the request of Mr. DORGAN, his name was added as a cosponsor of S.

2186, a bill to temporarily extend the programs under the Small Business Act and the Small Business Investment Act of 1958, through May 15, 2004, and for other purposes.

S.J. RES. 28

At the request of Mr. CAMPBELL, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S.J. Res. 28, a joint resolution recognizing the 60th anniversary of the Allied landing at Normandy during World War II.

S. CON. RES. 88

At the request of Mr. SARBANES, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. Con. Res. 88, a concurrent resolution expressing the sense of Congress that there should continue to be parity between the adjustments in the pay of members of the uniformed services and the adjustments in the pay of civilian employees of the United States.

AMENDMENT NO. 2775

At the request of Ms. LANDRIEU, the names of the Senator from South Dakota (Mr. DASCHLE), the Senator from Nevada (Mr. REID), the Senator from Florida (Mr. NELSON), the Senator from Hawaii (Mr. INOUE), the Senator from New York (Mrs. CLINTON), the Senator from Washington (Mrs. MURRAY), the Senator from Maryland (Ms. MIKULSKI) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 2775 proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

AMENDMENT NO. 2793

At the request of Mr. DORGAN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of amendment No. 2793 proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

AMENDMENT NO. 2847

At the request of Mr. GRASSLEY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 2847 proposed to S. Con. Res. 95, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2005 and including the appropriate budgetary levels for fiscal years 2006 through 2009.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself and Mr. COLEMAN):

S. 2210. A bill to restrict the use of abusive tax shelters and offshore tax

havens to inappropriately avoid Federal taxation, and for other purposes; to the Committee on Finance.

Mr. LEVIN. Mr. President, I would like to introduce today, with Senator NORM COLEMAN, a comprehensive tax reform bill called the Tax Shelter and Tax Haven Reform Act. This bill is intended to respond to the ever increasing tax shelter and tax haven abuses that are undermining the integrity of our tax system, robbing the Treasury of tens of billions of dollars each year, and shifting the tax burden from high income corporations and individuals onto the backs of the middle class. Abusive tax shelters and the misuse of tax havens must be stopped.

For more than a year, the Permanent Subcommittee on Investigations, on which I serve, has been conducting an investigation at my request into the design, sale, and implementation of abusive tax shelters. I initiated this investigation back in 2002, but it has since been carried out in a bipartisan fashion with the support of Senator COLEMAN, who is our current Subcommittee Chairman.

What the subcommittee investigation has found is that many of the abusive tax shelters were not dreamed up by the taxpayers who used them. Instead, most were devised by tax professionals, like accountants, lawyers, bankers, and investment advisors, who then sold the tax shelter to clients for a fee. In fact, as our investigation widened, we found hordes of tax advisors cooking up one complex scheme after another, packaging them up as generic "tax products" with boiler-plate legal and tax opinions, and then undertaking elaborate marketing schemes to peddle these products to literally thousands of persons across the country. In return, these tax shelter promoters were getting hundreds of millions of dollars in fees, while diverting billions of dollars in tax revenues from the U.S. Treasury each year.

In November 2003, our subcommittee held two days of hearings and released a report prepared by my staff which pulled back the curtain and provided an inside look at how even some respected accounting firms, banks, investment advisors, and lawyers have become the engines pushing the design and sale of abusive tax shelters to corporations and individuals across this country. It was this investigative effort that inspired many of the provisions in the bill to combat abusive tax shelters and the professionals who promote them.

Another part of this bill results from subcommittee investigations examining how tax havens around the globe help taxpayers dodge their U.S. tax obligations, using corporate, bank, and tax secrecy laws to impede U.S. tax enforcement efforts. At one subcommittee hearing in 2001, a former owner of an offshore bank in the Caribbean testified that he believed 100% of his bank clients were engaged in tax evasion. He said that almost all were

from the United States, described elaborate measures taken to avoid IRS detection of his clients' money transfers, and expressed confidence that the Government would defend client secrecy in order to attract business to the island. For the past few years, the IRS has made detection of offshore bank accounts used by individuals to conceal taxable income an enforcement priority, estimating that as many as 1 to 2 million U.S. taxpayers are hiding funds in offshore tax havens.

Corporations are also using tax havens to reduce their U.S. tax liability. A subcommittee hearing held in 2003, on an Enron tax shelter known as Slapshot, as well as Senate Finance Committee hearings on other Enron tax scams, show how corporations can utilize tax havens to avoid U.S. taxes. A GAO report recently released by Senator DORGAN and myself shows that nearly two-thirds of the top 100 companies doing business with the United States now have one or more subsidiaries in a tax haven. One company, Tyco International, has 115 tax haven subsidiaries. Data recently released by the Commerce Department further demonstrates the extent of U.S. corporate use of tax havens, indicating that, as of 2001, almost half of all foreign profits of U.S. corporations were in tax havens.

Over the years, subcommittee investigations have uncovered numerous instances of how U.S. tax enforcement efforts examining transactions, bank accounts, and other activities in tax havens have been delayed or impeded by tax haven secrecy laws and practices. This bill is intended to give the U.S. Government new tools to stop uncooperative tax havens from continuing to help corporations and individuals dodge their U.S. tax obligations.

Stop and think what is at stake here. Men and women in our military are putting their lives on the line every day for our Nation. They are in Iraq, Afghanistan, the Balkans, and now Haiti. To make sure we can provide them with the resources they need, all Americans need to contribute their fair share in taxes. Unfortunately, there are too many companies and individuals that finagle ways to avoid paying what they owe, despite the benefits they receive from this country. These tax dodgers deprive our Nation of billions of dollars in resources and add to the tax burdens of the rest of us.

Companies benefit from so much here in America: our stock market, telecommunications infrastructure, patent protections, educated workforce, research support, sophisticated financial systems, and basic law enforcement. Yet, too many companies run to use tax avoidance schemes based on abusive tax shelters and tax havens like a car speeding through a tollbooth, leaving the rest of us to pitch in the required fare and subsidize their free ride.

Corporate and individual tax dodges today take many forms. They include

the following: Abusive tax shelters in which taxpayers use complex investment schemes with no real business purpose other than to evade tax; corporate inversions in which companies pretend to move their headquarters to an offshore tax haven just to avoid their U.S. tax bill; foreign tax havens in which taxpayers use bank accounts and shell entities in foreign tax havens to escape detection while dodging taxes; and structured financial transactions in which companies use shell entities in convoluted setups or improper transfer pricing schemes to avoid taxes. In most cases, these tax dodges are designed, sold and implemented by tax professionals who receive lucrative fees to help their clients avoid their tax obligations. To provide a better picture of some of these abuses, here are a few recent examples.

Perhaps the best-known corporate inverter is Tyco International, which operates out of New Hampshire and New Jersey, but claims a mailing address in Bermuda to avoid U.S. taxes. This tax dodge is a slap in the face of U.S. taxpayers, especially in light of the \$300 million in Federal defense and homeland security contracts awarded to Tyco in FY 2002, as well as the months-long, taxpayer-financed prosecution of Tyco's former officers for diverting \$600 million in corporate assets to their personal use. Tyco, once a proud U.S. corporation, has sunk to new lows in its attempts to avoid paying its U.S. taxes.

Corporate tax abuses aren't confined to large U.S. companies. One example of an abusive tax shelter being used by some small companies is called "SC2," which was one of the tax shelters featured in our recent Subcommittee hearings and staff report. In this shelter, a closely-held corporation temporarily grants nonvoting stock to a tax-exempt charity and then allocates—on paper—a significant portion of the company's profits to that charity. Beforehand, the company takes steps to limit or suspend any obligation to actually distribute income allocated to its shareholders. The charity pays no tax on the paper profits allocated to it. When the original corporate owners eventually reclaim both the stock and undistributed profits, they claim that capital gains taxes, rather than higher ordinary income taxes, apply to the income previously allocated to the charity. The charity gets paid for its complicity, the corporate owners evade a lot of tax, and Uncle Sam is the loser.

A third tax shelter example involves a massive, \$20 billion transfer pricing tax scam recently disclosed in a report issued by the bankruptcy examiner for Worldcom-MCI. The report states that Worldcom avoided paying hundreds of millions of dollars in state and Federal taxes over a four-year period, from 1998 to 2001, by claiming questionable expenses from related shell companies, including for a bogus intangible asset called "management foresight." The

bankruptcy examiner, former Attorney General Richard Thornburgh, called on the company to sue its tax advisor and auditor, KPMG, for landing the company in this tax disaster, but Worldcom-MCI has, instead brazenly decided to continue using the tax dodge. This is the same company, by the way, that profits from billions of dollars in Federal and State contracts paid for—that's right—with taxpayer dollars.

The tax chiseling seems endless. Some of the tax ploys are arguably technically legal and require a change in law or regulation. Others appear blatantly illegal, yet elicit little or no penalty. Companies keep using them, and their competitors are put at a disadvantage unless they join in.

Too many respected accounting firms, financial institutions, and lawyers have joined in the sickening games by peddling tax dodges and taking a cut of the billions of dollars diverted from the U.S. Treasury. As IRS Commissioner Mark Everson has pointed out, accountants and lawyers should be the pillars of our system of voluntary tax compliance, not the architects of its circumvention.

This tax chiseling hurts average taxpayers, not only by leaving them with the burden of making up the lost revenues, but also by constricting resources for essential government programs. It is a lack of resources that results in the new Medicare drug prescription plan having a huge gap in coverage that denies elderly help with their prescription drug bills when they most need it. It's why our schools are burdened with unfunded mandates. It's why we have a giant and deepening deficit ditch threatening our children's economic well-being. The list of harmful consequences of tax dodging is long and disquieting.

The Tax Shelter and Tax Haven Reform Act we are introducing today contains a number of measures to put an end to these tax dodges:

To curb abusive tax shelters, the bill strengthens the penalties on tax shelter promoters and codifies the economic substance doctrine eliminating tax benefits for transactions that have no real business purpose or real economic impact apart from those tax benefits.

To crack down on the misuse of tax havens, we authorize Treasury to issue an annual list of "uncooperative tax havens" and suspend U.S. tax benefits for income attributed to those jurisdictions.

We also require the Treasury Department to issue standards for tax shelter opinion letters, and give the IRS new tools to take tough enforcement action against the accounts, lawyers, bankers and other financial professionals promoting or facilitating deceptive tax schemes.

Let me be more specific.

Title I of the bill strengthens a host of tax shelter penalties, which are currently so weak they provide no deter-

rent effect at all. Two examples demonstrate the problem:

First, consider the penalty for promoting an abusive tax shelter, as set forth in section 6700 of the tax code. Currently, the penalty is the lesser of \$1,000 or 100 percent of the promoter's gross income derived from the prohibited activity. That means in most cases, the maximum fine is \$1,000. That figure is laughable, when many abusive tax shelters are selling for \$100,000 or \$250,000 a piece. Our investigation uncovered some tax shelters that were sold for \$900,000 or even \$2 million each, and instances in which the same cookie-cutter tax opinion letter was sold to 100 or even 200 clients. A \$1,000 fine just doesn't cut it.

If further proof were needed, one document uncovered by our investigation contains the cold calculation by a senior tax professional at KPMG comparing possible tax shelter fees with possible tax shelter penalties if the firm were caught promoting an illegal tax shelter. This senior tax professional wrote the following: "[O]ur average deal would result in KPMG fees of \$360,000 with a maximum penalty exposure of only \$31,000." He then recommended the obvious—going forward with sales of the abusive tax shelter on a cost-benefit basis.

Proposals to increase the penalty for promoting abusive tax shelters have already passed the Senate three times and are included in the JOBS Act pending in the Senate. But these proposals are not tough enough to do the job that needs to be done. In general, they increase the penalty for promoting abusive tax shelters to a maximum of 50 percent of the promoters' gross income from the prohibited activity. Now, think about that. Why should anyone who illegally pushes an abusive tax shelter be allowed—if they get caught—to keep half of their profits? What deterrent effect is created by a penalty that allows promoters to keep half of their wages if caught, and all of them if they are not?

Penalties for those who peddle abusive tax shelters need to be a lot tougher. They should, first, make sure a tax shelter promoter is deprived of every penny of the profits earned from selling or providing legal advice on the shelter, and then pay a fine on top of that. Only that way is the promoter actually penalized for misconduct. Secondly, tax shelter promoters ought to face a penalty that is at least as harsh as the penalty imposed on the taxpayer who purchased their tax product, not only because the promoter is usually as culpable as the taxpayer, but also so promoters think twice about pushing tax schemes. Specifically, section 101 of the bill would increase the penalty on tax shelter promoters to an amount up to the greater of either 150 percent of the promoters' gross income from the prohibited activity, or the amount assessed against the taxpayer—including backtaxes, interest and penalties—for using the abusive shelter.

A second penalty provision in the bill involves what our investigation found to be one of the biggest problems—the knowing assistance of accounting firms, law firms, banks, and others helping taxpayers understate their taxes. Right now, under Section 6701 of the tax code, persons who knowingly aid and abet a taxpayer in understating their tax liability face a maximum penalty of \$1,000 for assisting individual taxpayers and \$10,000 for assisting corporate taxpayers. These paltry amounts provide no deterrent at all. Worse yet, the penalty applies only to so-called "tax return preparers." Current law imposes no penalty at all on those who knowingly design and carry out the abusive tax shelter, so long as those persons don't actually prepare the taxpayer's return.

Section 102 of the bill would strengthen this penalty significantly, subjecting aiders and abettors to a maximum fine up to the greater of either 150 percent of the aider and abettor's gross income from the prohibited activity, or the amount assessed against the taxpayer for using the abusive shelter. And this penalty would apply to all aiders and abettors, not just tax return preparers.

These are just two of the penalties strengthened by the Tax Shelter and Tax Haven Reform Act. Others include stronger penalties for tax shelter promoters who fail to register a new shelter with the IRS or fail to provide the IRS with a client list when requested, and stronger penalties for taxpayers who fail to disclose a tax shelter on their tax return or fail to disclose an offshore bank account.

Title II also contains many provisions to combat abusive tax shelters, but first I want to mention Title III, which focuses on the economic substance doctrine, and Title IV which addresses offshore tax havens.

Title III of the bill would include in Federal tax statutes for the first time what is known as the economic substance doctrine. This anti-abuse doctrine was fashioned by Federal Courts asked to evaluate transactions which appeared to have little or no business purpose or economic substance apart from tax avoidance. It has become a powerful analytical tool used by courts to invalidate abusive tax shelters. At the same time, because there is no statute underlying this doctrine and the courts have developed and applied it differently in different judicial districts, the existing case law has many ambiguities and conflicting interpretations.

Under the leadership of Senators GRASSLEY and BAUCUS, the Chairman and Ranking Member of the Finance Committee, the Senate has voted three times to codify the economic substance doctrine, but it has yet to be enacted into law. Since no tax shelter legislation would be complete without addressing this issue, Title III of this comprehensive bill proposes once more to include the economic substance doctrine in the tax code.

Sections 401 and 402 in the Tax Shelter and Tax Haven Reform Act also tackle the issue of tax havens by deterring use of tax havens that fail to cooperate with U.S. tax enforcement efforts. There are dozens of jurisdictions around the world that have enacted corporate, bank, and tax secrecy laws and then, in too many cases, used these laws to justify a failure to provide timely information to U.S. law enforcement about persons suspected of either hiding funds in the jurisdiction's offshore bank accounts or using offshore corporations and deceptive transactions to disguise their income or create phony losses to shelter their income from taxation.

Section 401 of the bill would tackle the problem by giving the Treasury Secretary the discretion to designate offshore tax havens as "uncooperative" and to publish an annual list of these uncooperative tax havens. The Treasury Secretary is intended to develop this list by evaluating the actual record of cooperation experienced by the United States in its dealings with specific jurisdictions around the world. While many offshore tax havens have recently signed treaties with the United States promising for the first time to cooperate with U.S. civil and criminal tax enforcement, it is undetermined what level of cooperation will actually result. For example, after one country signed a tax treaty with the United States, the government that led the effort was voted out of office by treaty opponents. Treasury needs a way to ensure that tax treaty obligations are met and to send a message to jurisdictions that impede U.S. tax enforcement. This bill will help Treasury get the cooperation it needs.

In addition to authorizing Treasury to publish an annual list of uncooperative tax havens, section 401 and 402 of the bill would deter use of uncooperative tax havens by imposing two types of restrictions on taxpayers doing business in the designated jurisdictions. First, taxpayers would be required to provide greater disclosure of their activities on their tax returns, including disclosing on their returns any payment above \$10,000 to a person or account located in a designated tax haven. Second, the bill would disallow any tax benefits, such as foreign tax credits or deferral of taxation, for income attributable to a designated tax haven. These restrictions would provide the United States with powerful weapons to compel tax havens to begin to cooperate with U.S. tax enforcement efforts.

In addition to addressing the need to increase tax shelter penalties, codify the economic substance doctrine and deter use of uncooperative tax havens, the bill includes a number of measures in Title II that would address other aspects of abusive tax shelters. I'd like to discuss a few of these.

Title II of the bill includes a number of additional measures to crack down on abusive tax dodges. Section 201 of

the bill would, in part, direct the Department of the Treasury to issue as part of Circular 230 new standards for tax practitioners issuing opinion letters on the tax implications of tax shelters. The public has traditionally relied on tax opinion letters to obtain informed and trustworthy advice about whether a tax-motivated transaction meets the requirements of the law. The investigation conducted by the Permanent Subcommittee on Investigations found that, in too many cases, tax opinion letters no longer contain disinterested and reliable tax advice, even when issued by supposedly reputable accounting or law firms. Instead, too many tax opinion letters have become marketing tools used by tax shelter promoters and their allies to sell clients on their latest tax products. In too many of these cases, financial interests and biases were concealed, unreasonable factual assumptions were used to justify dubious legal conclusions, and taxpayers were misled about the risks that the proposed transaction would later be designated an illegal tax shelter. Reforms are essential to address these abuses and restore the integrity of tax opinion letters issued by reputable firms.

Treasury recently proposed standards that would address some of the ongoing abuses affecting tax shelter opinion letters; however, the proposed standards do not take all the steps needed. Our bill would require Treasury to issue standards addressing a wider spectrum of tax shelter opinion letter problems, including: (1) the independence of the opinion letter writer from tax shelter promoters, (2) collaboration among letter writers resulting in joint financial interest, (3) avoidance of conflicts of interest that would impair auditor independence, (4) review and approval procedures by a firm for opinion letters issued in the name of the firm, (5) reliance on reasonable factual representations, and (6) the appropriateness of fee charges. By addressing each of these areas, Circular 230 could help reduce the ongoing abusive practices related to tax shelter opinion letters.

During the November tax shelter hearings before the Permanent Subcommittee on Investigations, IRS Commissioner Mark Everson testified that his agency was barred by section 6103 of the tax code from communicating information to other Federal agencies that would assist those agencies in their law enforcement duties. He indicated, for example, that the IRS was barred from providing tax return information to the SEC, Federal bank regulators, and the Public Company Accounting Oversight Board, or PCAOB, even when that information might assist a Federal agency in evaluating whether an abusive tax shelter resulted in deceptive accounting in a public company's financial statements, whether a bank selling tax products to its clients had violated the law against promoting abusive tax shelters, or

whether an accounting firm had impaired its independence by selling tax shelters to its audit clients.

These communication barriers between our key Federal civil enforcement agencies are outdated, inefficient, and ill-suited to stopping the torrent of tax shelter abuses now affecting or being promoted by so many of our public companies, banks, and accounting firms. To address this problem, section 203 of the bill would authorize the Treasury Secretary, with appropriate privacy safeguards, to disclose to the SEC, Federal banking agencies, and the PCAOB, upon request, tax return information related to abusive tax shelters, inappropriate tax avoidance, or tax evasion. The agencies could then use this information only for law enforcement purposes, such as preventing accounting firms or banks from promoting abusive tax shelters or aiding or abetting tax evasion, and detecting and punishing accounting fraud related to illegal tax shelters employed by public companies. Improved information sharing for law enforcement purposes would greatly aid our agencies in their enforcement efforts.

The bill would also provide for increased disclosure to Congress. Section 204 of the bill would make it clear, for example, that companies providing tax return preparation services to taxpayers cannot refuse to comply with a Congressional document subpoena by citing a consumer protection provision in the tax code, section 7216, prohibiting tax return preparers from disclosing taxpayer information to third parties. Several accounting and law firms raised this claim in response to document subpoenas issued by the Permanent Subcommittee on Investigations, contending they were barred by the nondisclosure provision in section 721 from producing documents related to the sale of abusive tax shelters to clients for a fee. The accounting and law firms maintained this position despite an analysis provided by the Senate legal counsel showing that the nondisclosure provision was never intended to create a privilege or to override a Senate subpoena, as demonstrated in Federal regulations interpreting the provision. To clarify the law, the bill would codify the existing regulations interpreting section 7216 and make it clear that congressional document subpoenas must be honored.

Section 204 would also ensure Congress has access to information about decisions by Treasury related to an organization's tax exempt status. A 2003 decision by the D.C. Circuit Court of Appeals, *Tax Analysts v. IRS*, struck down certain IRS regulations and held that the IRS must disclose letters denying or revoking an organization's tax exempt status to the public. The IRS has been reluctant to disclose such information, not only to the public, but also to Congress, including in response to requests by the Permanent Subcommittee on Investigations. This

section of the bill would make it clear that, upon receipt of a request from a Congressional committee or subcommittee, the IRS must disclose documents, other than a tax return, related to the agency's determination to grant, deny, revoke or restore an organization's exemption from taxation.

Still another finding of the subcommittee investigation is that tax practitioners are circumventing current State and Federal constraints on charging tax service fees that are contingent on actual or projected tax savings. Traditionally, accounting firms charged flat fees or hourly fees for their tax services. In the 1990s, however, they began charging "value added" fees based on, in the words of a one accounting firm's manual, "the value of the services provided, as opposed to the time required to perform the services." In addition, some firms began charging "contingent fees" that were based on a client's obtaining specified results from the services offered, such as projected tax savings. In response, many States prohibited accounting firms from charging contingent fees for tax work to avoid creating incentives for these firms to devise ways to shelter substantial sums. The SEC and the American Institute of Certified Public Accountants also issued rules restricting contingent fees, allowing them in only limited circumstances.

The subcommittee investigation found that tax shelter fees, which are typically substantial and sometimes exceed \$1 million, are often linked to the taxpayer's projected tax savings or paper losses to be used to shelter income from taxation. For example, in three tax shelters examined by the Subcommittee, documents show that the fees were equal to a percentage of the paper loss to be generated by the transaction. In one case, the fees were typically set at 7 percent of the transaction's generated "tax loss" that clients could sue to shelter other taxable income. In addition, other evidence indicated that, in at least some instances, a tax advisor was willing to deliberately manipulate the way it handled certain tax products to circumvent the contingent fee prohibitions. One internal document at an accounting firm related to a specific tax shelter, for example, identified the states that prohibited contingent fees. Then, rather than prohibit the tax shelter transactions in those States or require an alternative fee structure, the memorandum directed the firm's tax professionals to make sure the engagement letter was signed, the engagement was managed, and the bulk of services was performed "in a jurisdiction that does not prohibit contingency fees."

Right now, the prohibitions on contingent fees are complex and must be evaluated in the context of a patchwork of Federal, State and professional ethics rules. Section 205 of the bill would simplify the existing prohibi-

tions on contingency fees by putting into place a single enforceable rule, applicable nationwide, that would prohibit tax practitioners from charging fees which are "contingent upon the actual or projected achievement of Federal tax savings or benefits, or of losses which can be used to offset other taxable income."

Section 206 of the bill would establish that it is the sense of the Senate that additional funds should be appropriated for IRS enforcement, and that the IRS should devote proportionately more of its enforcement funds to combat rampant tax shelter and tax haven abuses. Specifically, the bill would direct increased funding toward enforcement efforts combating the promotion of abusive tax shelters for corporations and high net worth individuals and the aiding and abetting of tax evasion; the involvement of accounting, law and financial firms in such promotion and aiding and abetting; and the use of offshore financial account to conceal taxable income.

In a bipartisan letter that was recently sent to the Senate appropriations committee by Senators COLEMAN, COLLINS, LIEBERMAN and myself, we wrote that, "Tax enforcement is one area where a relatively small increase in spending can pay for itself many times over." Tens of billions in revenues that should support this country would actually reach the Treasury if we would hire adequate enforcement personnel, close the tax loopholes, and put an end to tax dodges.

It is past time to get serious about tax shelter abuses, uncooperative tax havens, and the tax dodgers who use them. This bill would send the message to tax dodgers that their shenanigans are unfair, unpatriotic, and unacceptable. We need to stop putting a disproportionate burden on the shoulders of the average American and make sure all taxpayers are paying their fair share.

I ask unanimous consent that a summary of the bill and the text of the bill be printed in the RECORD.

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

SUMMARY OF SENATOR LEVIN'S TAX SHELTER AND TAX HAVEN REFORM ACT

(See attached, more detailed summary that reflects which parts of this bill are patterned after or incorporated in the Grassley/Baucus revenue raisers that have previously passed the Senate and are included in the upcoming JOBS Act.)

Title I—Strengthen Tax Shelter Penalties:
Strengthen penalties for promoting abusive tax shelters, aiding or abetting tax evasion, failing to register or disclose potentially abusive tax shelters, failing to maintain and disclose required tax shelter client lists, and failing to disclose offshore bank accounts;

Extend statute of limitations for undisclosed tax shelters; and

Expand injunctive relief to stop certain conduct related to abusive tax shelters.

Title II—Prevent Abusive Tax Shelters:
Authorize censure, civil fines, and tax shelter opinion standards for tax practitioners;

Expand tax shelter exception to tax practitioner privilege to cover all abusive tax shelters;

Authorize IRS to disclose certain tax shelter information to certain federal agencies to strengthen civil law enforcement;

Increase disclosure of certain tax shelter promoter information to Congress;

Prohibit use of fees contingent on specified amount of tax avoidance; and

Sense of the Senate on IRS tax enforcement priorities, advocating more enforcement funds and more enforcement action to stop tax shelter promoters and combat use of offshore bank accounts to conceal taxable income.

Title III—Require Economic Substance:
Clarify and codify the economic substance doctrine;

Strengthen penalty for tax transactions lacking economic substance; and

Eliminate tax deduction for interest on unpaid taxes attributable to transactions determined to be without economic substance.

Title IV—Deter Uncooperative Tax Havens:
Require disclosure of payments to uncooperative tax havens; and

Restrict tax benefits for income earned in uncooperative tax havens.

TITLE I—STRENGTHENING TAX SHELTER PENALTIES

Sections 101–109

Strengthens the penalties for (see chart on last page of this summary): promoting abusive tax shelters (§101); knowingly aiding or abetting a taxpayer in understating tax liability (§102); failing to register potentially abusive tax shelters with the IRS or to provide required information about such shelters to the IRS (§103, §106); failing to maintain and disclose to the IRS upon request tax shelter client lists (§104); and failing to disclose offshore bank accounts (§109).

Extends statute of limitations for undisclosed tax shelters (§107), and expands the IRS' ability to seek injunctions against tax shelter promoters and material advisors (§108). Modeled after provisions in the Grassley/Baucus legislation that has passed the Senate three times.

TITLE II—PREVENTING ABUSIVE TAX SHELTER TRANSACTIONS

Section 201—Authorize censure, civil fines, and tax shelter opinion standards for tax practitioners

Authorizes Treasury to censure or impose civil fines on tax practitioners (such as accountants and attorneys) who violate specified standards of practice in Circular 230, for persons representing clients before the IRS. Modeled after provision in the Grassley/Baucus legislation that has passed the Senate three times.

Directs Treasury to issue Circular 230 standards for tax practitioners providing "opinion letters" on specific tax shelter transactions. Requires standards to address: (1) independence of letter writer from tax shelter promoters, (2) collaboration among letter writers resulting in joint financial interests, (3) avoidance of conflicts of interest that would impair auditor independence, (4) review and approval by a firm of opinion letters issued in the name of the firm, (5) reasonable reliance on factual representations, and (6) the appropriateness of fee charges. Expands upon standards recently proposed by Treasury.

Section 202—Expand tax shelter exception to tax practitioner privilege

Expands existing tax shelter exception to the confidentiality privilege for communications between a federally authorized tax practitioner and taxpayer, so that the exception applies to communications not only about corporate tax shelters, but other tax

shelters as well. Modeled after provision in the Grassley/Baucus legislation that has passed the Senate three times.

Sections 203–204—Increase disclosure of certain tax shelter information

Authorizes Treasury to share certain tax return information with the SEC, federal bank regulators, or PCAOB, under certain circumstances, to enhance tax shelter enforcement or combat financial accounting fraud. (§204)

Clarifies that Congress has the same subpoena authority as federal, state, and local authorities to obtain information from tax return preparers. Expands Congress' authority to obtain certain tax information (but not a taxpayer return) from Treasury related to an IRS decision to grant, deny, revoke, or restore an organization's tax exempt status. (§205)

Section 205—Prohibit tax service fees contingent on specific tax savings

Prohibits charging a fee for tax services in an amount contingent upon the actual or projected achievement of a specified amount of tax savings or income loss to offset taxable income. Builds on existing contingent

fee prohibitions in more than 20 states, AICPA rules applicable to accountants, and SEC regulations applicable to auditors of publicly traded corporations. Based upon investigation by Permanent Subcommittee on Investigations showing tax practitioners are circumventing current constraints.

Section 206—"Sense of the Senate" on IRS Enforcement Priorities

Establishes the Sense of the Senate that additional funds should be appropriated for IRS enforcement, and that the IRS should devote proportionately more of its enforcement funds to combat: (1) the promotion of abusive tax shelters for corporations and high net worth individuals and the aiding or abetting of tax evasion, (2) the involvement of accounting, law and financial firms in such promotion and aiding or abetting, and (3) the use of offshore financial accounts to conceal taxable income.

TITLE III—REQUIRING ECONOMIC SUBSTANCE
Sections 301–303—Strengthen the Economic Substance Doctrine

Strengthens and codifies the economic substance doctrine to invalidate transactions that have no economic substance or business

purpose apart from tax avoidance or evasion. Also increases penalties for understatements and eliminates deductibility of interest on unpaid taxes when the penalties or interest are attributable to a transaction lacking in economic substance. Modeled after provisions in the Grassley/Baucus legislation that has passed the Senate three times. Estimated to raise \$13.7 billion over ten years.

TITLE IV—DETERRING UNCOOPERATIVE TAX HAVENS

Section 401–402—Deter Uncooperative Tax Havens

Deters taxpayer use of uncooperative tax havens with corporate, bank or tax secrecy laws, procedures, or practices that impede U.S. enforcement of its tax laws by: (1) requiring disclosure on taxpayer returns of any payments above \$10,000 to accounts or persons located in such tax havens (§401), and (2) ending tax benefits for any income earned in such tax havens (§402). Gives Treasury Secretary discretion to designate a tax haven as uncooperative and publish an annual list of those jurisdictions.

COMPARISON OF TITLE I PENALTY PROVISIONS—STRENGTHEN TAX SHELTER PENALTIES

Violation	Penalty		
	Current law	Provisions in JOBS Act (S. 1637)	Provisions in Tax Shelter and Tax Haven Reform Act
Promotion of abusive tax shelters. IRC § 6700	Lesser of \$1,000 or 100% of the promoters' gross income derived from the prohibited activity.	50% of the promoters' gross income from the activity. (§ 415).	Not to exceed the greater of: (i) 150% of the promoters' gross income from the prohibited activity, or (ii) amount assessed against the taxpayer for using abusive shelter (including backtaxes, penalties and interest) (§ 101).
Knowingly aiding and abetting understatement of tax liability. IRC § 6701.	Maximum of \$1,000 (\$10,000 for a corporation). Penalty applies only to tax return preparer.	No provision included	Not to exceed the greater of: (i) 150% of the aider/abettor's gross income from the prohibited activity, or (ii) amount assessed against the taxpayer for the understatement (including backtaxes, penalties and interest). Penalty applies to all aiders/abettors, not just preparers (§ 102).
Failure to timely register with IRS a shelter or provision of false or incomplete information with respect to it. IRC § 6707(a).	Non-confidential shelter: Greater of \$500 or 1% of the amount invested. Confidential shelter: Greater of \$10,000 or 50% of the promoters' fees (75% if violation is intentional).	\$50,000. No distinction between confidential and non-confidential. However, if relates to a tax shelter previously identified by the IRS, no less than \$200,000 but not greater than 50% of the promoter's income from the shelter (75% if violation is intentional). Material advisors must also register. (§ 408).	\$50,000 to \$100,000. No distinction between confidential and non-confidential. However, if relates to a tax shelter previously identified by the IRS, no less than \$200,000 but not greater than 100% of the promoter's income from the shelter (150% if violation is intentional). Material advisors must also register (§ 103).
Failure by taxpayer to include with return the required information regarding a potentially abusive shelter. IRC § 6707(b)(2).	\$250 per failure to include tax shelter ID number. (There are additional penalties on the taxpayer that relate to understatement or underpayment.)	Significantly broadens disclosure requirements. \$50,000, but \$100,000 if failure relates to a tax shelter previously identified by the IRS. Doubled amounts if the taxpayer is a large entity or high net worth individual. (§ 402).	Similar disclosure requirements as JOBS Act. \$50,000, but \$100,000 if failure relates to a tax shelter previously identified by the IRS. Doubled amounts if intentional (§ 105).
Failure to maintain list of participants in potentially abusive tax shelters. IRC § 6708.	\$50 per name, with a maximum penalty per year of \$100,000.	\$10,000 per day after the person has failed for 20 days to provide a list to the IRS after the agency requested it. (§ 409).	Same as JOBS Act, plus if an incomplete list is given to the IRS, \$100 per omitted investor per day (§ 104).
Failure to report interests in foreign financial accounts. 31 USC § 5321.	Maximum of \$100,000, but failure must be willful for any penalty to be assessed.	Maximum of \$5,000, but if willful, up to \$100,000. (§ 412).	Maximum of \$10,000, but if willful, minimum of \$5,000 and up to 50% of the funds in the account over which the taxpayer has control (§ 109).

S. 2210

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

SECTION 1. SHORT TITLE; ETC.

(a) **SHORT TITLE.**—This Act may be cited as the "Tax Shelter and Tax Haven Reform Act".

(b) **AMENDMENT OF 1986 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 the Internal Revenue Code of 1986.

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

Sec. 1. Short title; etc.

TITLE I—STRENGTHENING TAX SHELTER PENALTIES

- Sec. 101. Penalty for promoting abusive tax shelters.
- Sec. 102. Penalty for aiding and abetting the understatement of tax liability.
- Sec. 103. Penalty for failing to register tax shelter.
- Sec. 104. Penalty for failing to maintain client list.

Sec. 105. Penalty for failing to disclose potentially abusive tax shelter.

Sec. 106. Improved disclosure of potentially abusive tax shelters.

Sec. 107. Extension of statute of limitations for undisclosed tax shelter.

Sec. 108. Expansion of injunctive relief to stop certain conduct related to tax shelter or understatement of tax liability.

Sec. 109. Penalty for failing to report interests in foreign financial accounts.

TITLE II—PREVENTING ABUSIVE TAX SHELTERS

Sec. 201. Censure, civil fines, and tax opinion standards for tax practitioners.

Sec. 202. Expansion of tax shelter exception to tax practitioner privilege.

Sec. 203. Information sharing for enforcement purposes.

Sec. 204. Disclosure of information to Congress.

Sec. 205. Contingent fee prohibition.

Sec. 206. Sense of the Senate on tax enforcement priorities.

TITLE III—REQUIRING ECONOMIC SUBSTANCE

Sec. 301. Clarification of economic substance doctrine.

Sec. 302. Accuracy-related penalty for listed transactions and other potentially abusive tax shelters having a significant tax avoidance purpose.

Sec. 303. Penalty for understatements attributable to transactions lacking economic substance, etc.

Sec. 304. Denial of deduction for interest on underpayments attributable to noneconomic substance transactions.

TITLE IV—DETERRING UNCOOPERATIVE TAX HAVENS

Sec. 401. Disclosing payments to persons in uncooperative tax havens.

Sec. 402. Detering uncooperative tax havens by restricting allowable tax benefits.

TITLE I—STRENGTHENING TAX SHELTER PENALTIES

SEC. 101. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) **PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.**—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking “a penalty” and all that follows through the period in the first sentence of subsection (a) and inserting “a penalty determined under subsection (b)”, and

(3) by inserting after subsection (a) the following new subsections:

“(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

“(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

“(A) 150 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty, and

“(B) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with such activity.

“(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

“(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

“(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 102. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting “the tax liability or” after “respect to,” in paragraph (1),

(2) by inserting “aid, assistance, procurement, or advice with respect to such” before “portion” both places it appears in paragraphs (2) and (3), and

(3) by inserting “instance of aid, assistance, procurement, or advice or each such” before “document” in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

“(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

“(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

“(i) 150 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty, and

“(ii) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with the understatement of the liability for tax.

“(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

“(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with

respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.”.

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

“(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

SEC. 103. PENALTY FOR FAILURE TO REGISTER TAX SHELTER.

(a) IN GENERAL.—Section 6707 (relating to failure to furnish information regarding tax shelters) is amended to read as follows:

“SEC. 6707. FAILURE TO FURNISH INFORMATION ON POTENTIALLY ABUSIVE TAX SHELTER OR LISTED TRANSACTION.

“(a) IN GENERAL.—If a person who is required to file a return under section 6111 with respect to any potentially abusive tax shelter—

“(1) fails to file such return on or before the date prescribed therefor, or

“(2) files false or incomplete information with the Secretary with respect to such shelter, such person shall pay a penalty with respect to such return in the amount determined under subsection (b).

“(b) AMOUNT OF PENALTY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the penalty imposed under subsection (a) with respect to any failure shall be not less than \$50,000 and not more than \$100,000.

“(2) LISTED TRANSACTIONS.—The penalty imposed under subsection (a) with respect to any listed transaction shall be an amount equal to the greater of—

“(A) \$200,000, or

“(B) 100 percent of the gross income derived by such person for providing aid, assistance, procurement, advice, or other services with respect to the listed transaction before the date the return including the transaction is filed under section 6111.

Subparagraph (B) shall be applied by substituting ‘150 percent’ for ‘100 percent’ in the case of an intentional failure or act described in subsection (a).

“(c) CERTAIN RULES TO APPLY.—The provisions of section 6707A(d) allowing the Commissioner of Internal Revenue to rescind a penalty under certain circumstances shall apply to any penalty imposed under this section.

“(d) POTENTIALLY ABUSIVE TAX SHELTERS AND LISTED TRANSACTIONS.—The terms ‘potentially abusive tax shelter’ and ‘listed transaction’ have the respective meanings given to such terms by section 6707A(c).

“(e) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.”.

(b) CLERICAL AMENDMENT.—The item relating to section 6707 in the table of sections for part I of subchapter B of chapter 68 is amended by striking “regarding tax shelters” and inserting “on potentially abusive tax shelter or listed transaction”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns

the due date for which is after the date of the enactment of this Act.

SEC. 104. PENALTY FOR FAILING TO MAINTAIN CLIENT LIST.

(a) IN GENERAL.—Subsection (a) of section 6708 (relating to failure to maintain lists of investors in potentially abusive tax shelters) is amended to read as follows:

“(a) IMPOSITION OF PENALTY.—

“(1) IN GENERAL.—If any person who is required to maintain a list under section 6112(a) fails to make such list available upon written request to the Secretary in accordance with section 6112(b)(1)(A) within 20 business days after the date of the Secretary’s request, such person shall pay a penalty of \$10,000 for each day of such failure after such 20th day. If such person makes available an incomplete list upon such request, such person shall pay a penalty of \$100 per each omitted name for each day of such omission after such 20th day.

“(2) GOOD CAUSE EXCEPTION.—No penalty shall be imposed by paragraph (1) with respect to the failure on any day if, in the judgment of the Secretary, such failure is due to good cause.”.

(b) PENALTY NOT DEDUCTIBLE.—Section 6708 is amended by adding at the end the following new subsection:

“(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to requests made by the Secretary of the Treasury after the date of the enactment of this Act.

SEC. 105. PENALTY FOR FAILING TO DISCLOSE POTENTIALLY ABUSIVE TAX SHELTER.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6707 the following new section:

“SEC. 6707A. PENALTY FOR FAILURE TO INCLUDE POTENTIALLY ABUSIVE TAX SHELTER INFORMATION WITH RETURN OR STATEMENT.

“(a) IMPOSITION OF PENALTY.—Any person who fails to include on any return or statement any information with respect to a potentially abusive tax shelter which is required under section 6011 to be included with such return or statement shall pay a penalty in the amount determined under subsection (b).

“(b) AMOUNT OF PENALTY.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount of the penalty under subsection (a) shall be \$50,000.

“(2) LISTED TRANSACTION.—Except as provided in paragraph 3, the amount of the penalty under subsection (a) with respect to a listed transaction shall be \$100,000.

“(3) INCREASE IN PENALTY FOR INTENTIONAL NONDISCLOSURE.—In the case of an intentional failure by any person under subsection (a), the penalty under paragraph (1) shall be \$100,000 and the penalty under paragraph (2) shall be \$200,000.

“(c) DEFINITIONS.—For purposes of this section—

“(1) POTENTIALLY ABUSIVE TAX SHELTER.—The term ‘potentially abusive tax shelter’ means any transaction with respect to which information is required to be included with a return or statement, because the Secretary has determined by regulation or otherwise that such transaction has a potential for tax avoidance or evasion.

“(2) LISTED TRANSACTION.—Except as provided in regulations, the term ‘listed transaction’ means a potentially abusive tax shelter which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011.

“(d) AUTHORITY TO RESCIND PENALTY.—

“(1) IN GENERAL.—The Commissioner of Internal Revenue may rescind all or any portion of a penalty imposed by this section with respect to any violation if—

“(A) the violation is with respect to a potentially abusive tax shelter other than a listed transaction,

“(B) the person on whom the penalty is imposed has a history of complying with the requirements of this title,

“(C) it is shown that the violation is due to an unintentional mistake of fact,

“(D) imposing the penalty would be against equity and good conscience, and

“(E) rescinding the penalty would promote compliance with the requirements of this title and effective tax administration.

“(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner’s sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

“(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

“(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

“(A) the facts and circumstances of the transaction,

“(B) the reasons for the rescission, and

“(C) the amount of the penalty rescinded. A copy of such opinion shall be provided upon written request to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Joint Committee on Taxation, or the General Accounting Office.

“(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

“(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

“(B) a description of each penalty rescinded under this subsection and the reasons therefor.

“(e) PENALTY REPORTED TO SEC.—In the case of a person—

“(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

“(2) which—

“(A) is required to pay a penalty under this section with respect to a listed transaction,

“(B) is required to pay a penalty under section 6662A with respect to any potentially abusive tax shelter at a rate prescribed under section 6662A(c), or

“(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accord-

ance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b)(2) applies.

“(f) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty provided by law.

“(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.”.

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by inserting after the item relating to section 6707 the following:

“Sec. 6707A. Penalty for failure to include potentially abusive tax shelter information with return or statement.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements the due date for which is after the date of the enactment of this Act.

SEC. 106. IMPROVED DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

(a) IN GENERAL.—Section 6111 (relating to registration of tax shelters) is amended to read as follows:

“SEC. 6111. DISCLOSURE OF POTENTIALLY ABUSIVE TAX SHELTERS.

“(a) IN GENERAL.—Each material advisor with respect to any potentially abusive tax shelter shall make a return (in such form as the Secretary may prescribe) setting forth—

“(1) information identifying and describing such shelter,

“(2) information describing any potential tax benefits expected to result from the shelter, and

“(3) such other information as the Secretary may prescribe.

Such return shall be filed not later than the date which is 30 days before the date on which the first sale of such shelter occurs or on any other date specified by the Secretary.

“(b) DEFINITIONS.—For purposes of this section—

“(1) MATERIAL ADVISOR.—

“(A) IN GENERAL.—The term ‘material advisor’ means any person—

“(i) who provides any material aid, assistance, or advice with respect to designing, organizing, managing, promoting, selling, implementing, or carrying out any potentially abusive tax shelter, and

“(ii) who directly or indirectly derives gross income in excess of the threshold amount for such aid, assistance, or advice.

“(B) THRESHOLD AMOUNT.—For purposes of subparagraph (A), the threshold amount is—

“(i) \$50,000 in the case of a potentially abusive tax shelter substantially all of the tax benefits from which are provided to natural persons, and

“(ii) \$100,000 in any other case.

“(2) POTENTIALLY ABUSIVE TAX SHELTER.—The term ‘potentially abusive tax shelter’ has the meaning given to such term by section 6707A(c).

“(c) REGULATIONS.—The Secretary may prescribe regulations which provide—

“(1) that only 1 person shall be required to meet the requirements of subsection (a) in cases in which 2 or more persons would otherwise be required to meet such requirements,

“(2) exemptions from the requirements of this section, and

“(3) such rules as may be necessary or appropriate to carry out the purposes of this section.”.

(b) CONFORMING AMENDMENTS.—

(1) The item relating to section 6111 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

“Sec. 6111. Disclosure of potentially abusive tax shelters.”.

(2)(A) So much of section 6112 as precedes subsection (c) thereof is amended to read as follows:

“SEC. 6112. MATERIAL ADVISORS OF POTENTIALLY ABUSIVE TAX SHELTERS MUST KEEP CLIENT LISTS.

“(a) IN GENERAL.—Each material advisor (as defined in section 6111) with respect to any potentially abusive tax shelter (as defined in section 6707A(c)) shall maintain, in such manner as the Secretary may by regulations prescribe, a list—

“(1) identifying each person with respect to whom such advisor acted as such a material advisor with respect to such shelter, and

“(2) containing such other information as the Secretary may by regulations require.

This section shall apply without regard to whether a material advisor is required to file a return under section 6111 with respect to such transaction.”.

(B) Section 6112 is amended by redesignating subsection (c) as subsection (b).

(C) Section 6112(b), as redesignated by subparagraph (B), is amended—

(i) by inserting “written” before “request” in paragraph (1)(A), and

(ii) by striking “shall prescribe” in paragraph (2) and inserting “may prescribe”.

(D) The item relating to section 6112 in the table of sections for subchapter B of chapter 61 is amended to read as follows:

“Sec. 6112. Material advisors of potentially abusive tax shelters must keep client lists.”.

(3)(A) The heading for section 6708 is amended to read as follows:

“SEC. 6708. FAILURE TO MAINTAIN CLIENT LISTS WITH RESPECT TO POTENTIALLY ABUSIVE TAX SHELTERS.”.

(B) The item relating to section 6708 in the table of sections for part I of subchapter B of chapter 68 is amended to read as follows:

“Sec. 6708. Failure to maintain client lists with respect to potentially abusive tax shelters.”.

(c) REQUIRED DISCLOSURE NOT SUBJECT TO CLAIM OF CONFIDENTIALITY.—Section 6112(b)(1), as redesignated by subsection (b)(2)(B), is amended by adding at the end the following new flush sentence:

“For purposes of this section, the identity of any person on such list shall not be privileged.”.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions with respect to which material aid, assistance, or advice referred to in section 6111(b)(1)(A)(i) of the Internal Revenue Code of 1986 (as added by this section) is provided after the date of the enactment of this Act.

(2) NO CLAIM OF CONFIDENTIALITY AGAINST DISCLOSURE.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 142 of the Deficit Reduction Act of 1984.

SEC. 107. EXTENSION OF STATUTE OF LIMITATIONS FOR UNDISCLOSED TAX SHELTER.

(a) IN GENERAL.—Section 6501(c) (relating to exceptions) is amended by adding at the end the following new paragraph:

“(10) POTENTIALLY ABUSIVE TAX SHELTERS.—If a taxpayer fails to include on any return or statement for any taxable year any information with respect to a potentially abusive tax shelter (as defined in section 6707A(c)) which is required under section 6011

to be included with such return or statement, the time for assessment of any tax imposed by this title with respect to such transaction shall not expire before the date which is 2 years after the earlier of—

“(A) the date on which the Secretary is furnished the information so required; or

“(B) the date that a material advisor (as defined in section 6111) meets the requirements of section 6112 with respect to a request by the Secretary under section 6112(b) relating to such transaction with respect to such taxpayer.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to taxable years with respect to which the period for assessing a deficiency did not expire before the date of the enactment of this Act.

SEC. 108. EXPANSION OF INJUNCTIVE RELIEF TO STOP CERTAIN CONDUCT RELATED TO TAX SHELTER OR UNDERSTATEMENT OF TAX LIABILITY.

(a) **IN GENERAL.**—Section 7408 (relating to action to enjoin promoters of abusive tax shelters, etc.) is amended by redesignating subsection (c) as subsection (d) and by striking subsections (a) and (b) and inserting the following new subsections:

“(a) **AUTHORITY TO SEEK INJUNCTION.**—A civil action in the name of the United States to enjoin any person from further engaging in specified conduct may be commenced at the request of the Secretary. Any action under this section shall be brought in the district court of the United States for the district in which such person resides, has his principal place of business, or has engaged in specified conduct. The court may exercise its jurisdiction over such action (as provided in section 7402(a)) separate and apart from any other action brought by the United States against such person.

“(b) **ADJUDICATION AND DECREE.**—In any action under subsection (a), if the court finds—

“(1) that the person has engaged in any specified conduct, and

“(2) that injunctive relief is appropriate to prevent recurrence of such conduct, the court may enjoin such person from engaging in such conduct or in any other activity subject to penalty under this title.

“(c) **SPECIFIED CONDUCT.**—For purposes of this section, the term ‘specified conduct’ means any action, or failure to take action, subject to penalty under section 6700, 6701, 6707, 6707A, 6708, or 7206.”.

(b) **CONFORMING AMENDMENTS.**—

(1) The heading for section 7408 is amended to read as follows:

“SEC. 7408. ACTIONS TO ENJOIN SPECIFIED CONDUCT RELATED TO TAX SHELTER OR UNDERSTATEMENT OF TAX LIABILITY.”.

(2) The table of sections for subchapter A of chapter 67 is amended by striking the item relating to section 7408 and inserting the following new item:

“Sec. 7408. Actions to enjoin specified conduct related to tax shelter or understatement of liability.”.

(c) **EFFECTIVE DATE.**—The amendment made by this section shall take effect on the day after the date of the enactment of this Act.

SEC. 109. PENALTY FOR FAILING TO REPORT INTERESTS IN FOREIGN FINANCIAL ACCOUNTS.

(a) **IN GENERAL.**—Section 5321(a)(5) of title 31, United States Code, is amended to read as follows:

“(5) **FOREIGN FINANCIAL AGENCY TRANSACTION VIOLATION.**—

“(A) **PENALTY AUTHORIZED.**—The Secretary of the Treasury may impose a civil money penalty on any person who violates, or causes any violation of, any provision of section 5314.

“(B) **AMOUNT OF PENALTY.**—

“(i) **IN GENERAL.**—Except as provided in subparagraph (C), the amount of any civil penalty imposed under subparagraph (A) shall not exceed \$10,000.

“(ii) **REASONABLE CAUSE EXCEPTION.**—No penalty shall be imposed under subparagraph (A) with respect to any violation if—

“(I) such violation was due to reasonable cause, and

“(II) the amount of the transaction or the balance in the account at the time of the transaction was properly reported.

“(C) **WILLFUL VIOLATIONS.**—In the case of any person willfully violating, or willfully causing any violation of, any provision of section 5314, the amount of the civil penalty imposed under subparagraph (A) shall be—

“(i) not less than \$5,000,

“(ii) not more than 50 percent of the amount determined under subparagraph (D), and

“(iii) subparagraph (B)(ii) shall not apply.

“(D) **AMOUNT.**—The amount determined under this subparagraph is—

“(i) in the case of a violation involving a transaction, the amount of the transaction, or

“(ii) in the case of a violation involving a failure to report the existence of an account or any identifying information required to be provided with respect to an account, the balance in the account at the time of the violation.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to violations occurring after the date of the enactment of this Act.

TITLE II—PREVENTING ABUSIVE TAX SHELTERS

SEC. 201. CENSURE, CIVIL FINES, AND TAX OPINION STANDARDS FOR TAX PRACTITIONERS.

(a) **CENSURE; IMPOSITION OF MONETARY PENALTY.**—

(1) **IN GENERAL.**—Section 330(b) of title 31, United States Code, is amended—

(A) by inserting “, or censure,” after “Department”, and

(B) by adding at the end the following new flush sentence:

“The Secretary may impose a monetary penalty on any representative described in the preceding sentence. If the representative was acting on behalf of an employer or any firm or other entity in connection with the conduct giving rise to such penalty, the Secretary may impose a monetary penalty on such employer, firm, or entity if it knew, or reasonably should have known, of such conduct. Such penalty may be in addition to, or in lieu of, any suspension, disbarment, or censure of the representative.”.

(2) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to actions taken after the date of the enactment of this Act.

(b) **TAX OPINION STANDARDS.**—Section 330 of such title 31 is amended by adding at the end the following new subsection:

“(d) The Secretary of the Treasury shall impose standards applicable to the rendering of written advice with respect to any potentially abusive tax shelter or any entity, plan, arrangement, or transaction which has a potential for tax avoidance or evasion. Such standards shall address, but not be limited to, the following issues:

“(1) Independence of the practitioner issuing such written advice from persons promoting, marketing, or recommending the subject of the advice.

“(2) Collaboration among practitioners, or between a practitioner and other party, which could result in such collaborating parties having a joint financial interest in the subject of the advice.

“(3) Avoidance of conflicts of interest which would impair auditor independence.

“(4) For written advice issued by a firm, standards for reviewing the advice and ensuring the consensus support of the firm for positions taken.

“(5) Reliance on reasonable factual representations by the taxpayer and other parties.

“(6) Appropriateness of the fees charged by the practitioner for the written advice.”.

SEC. 202. EXPANSION OF TAX SHELTER EXCEPTION TO TAX PRACTITIONER PRIVILEGE.

(a) **IN GENERAL.**—Subsection (b) of section 7525 (relating to confidentiality privileges relating to taxpayer communications) is amended to read as follows:

“(b) **NO PRIVILEGE FOR COMMUNICATIONS REGARDING TAX SHELTERS.**—The privilege under subsection (a) shall not apply to any communication which is—

“(1) between a federally authorized tax practitioner and—

“(A) any person,

“(B) any director, officer, employee, agent, or representative of the person, or

“(C) any other person holding a capital or profits interest in the person, and

“(2) in connection with the promotion of the direct or indirect participation of the person in any tax shelter (as defined in section 1274(b)(3)(C), 6662, or 6707A).”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to communications made on or after the date of the enactment of this Act.

SEC. 203. INFORMATION SHARING FOR ENFORCEMENT PURPOSES.

(a) **PROMOTION OF PROHIBITED TAX SHELTERS OR TAX AVOIDANCE SCHEMES.**—Section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new paragraph:

“(7) **DISCLOSURE OF RETURNS AND RETURN INFORMATION RELATED TO PROMOTION OF PROHIBITED TAX SHELTERS OR TAX AVOIDANCE SCHEMES.**—

“(A) **WRITTEN REQUEST.**—Upon receipt by the Secretary of a written request which meets the requirements of subparagraph (B) from the head of the United States Securities and Exchange Commission, an appropriate Federal banking agency as defined under section 1813(q) of title 12, United States Code, or the Public Company Accounting Oversight Board, a return or return information shall be disclosed to such requestor’s officers and employees who are personally and directly engaged in an investigation, examination, or proceeding by such requestor to evaluate, determine, penalize, or deter conduct by a financial institution, issuer, or public accounting firm, or associated person, in connection with a potential or actual violation of section 6700 (promotion of abusive tax shelters), 6701 (aiding and abetting understatement of tax liability), or activities related to promoting or facilitating inappropriate tax avoidance or tax evasion. Such disclosure shall be solely for use by such officers and employees in such investigation, examination, or proceeding.

“(B) **REQUIREMENTS.**—A request meets the requirements of this subparagraph if it sets forth—

“(i) the nature of the investigation, examination, or proceeding,

“(ii) the statutory authority under which such investigation, examination, or proceeding is being conducted,

“(iii) the name or names of the financial institution, issuer, or public accounting firm to which such return information relates,

“(iv) the taxable period or periods to which such return information relates, and

“(v) the specific reason or reasons why such disclosure is, or may be, relevant to such investigation, examination or proceeding.

“(C) FINANCIAL INSTITUTION.—For the purposes of this paragraph, the term ‘financial institution’ means a depository institution, foreign bank, insured institution, industrial loan company, broker, dealer, investment company, investment advisor, or other entity subject to regulation or oversight by the United States Securities and Exchange Commission or an appropriate Federal banking agency.”.

(b) FINANCIAL AND ACCOUNTING FRAUD INVESTIGATIONS.—Section 6103(i) (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by adding at the end the following new paragraph:

“(9) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN FINANCIAL AND ACCOUNTING FRAUD INVESTIGATIONS.—

“(A) WRITTEN REQUEST.—Upon receipt by the Secretary of a written request which meets the requirements of subparagraph (B) from the head of the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board, a return or return information shall be disclosed to such requestor’s officers and employees who are personally and directly engaged in an investigation, examination, or proceeding by such requester to evaluate the accuracy of a financial statement or report or to determine, require a restatement, penalize, or deter conduct by an issuer, investment company, or public accounting firm, or associated person, in connection with a potential or actual violation of auditing standards or prohibitions against false or misleading statements or omissions in financial statements or reports. Such disclosure shall be solely for use by such officers and employees in such investigation, examination or proceeding.

“(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if it sets forth—

“(i) the nature of the investigation, examination, or proceeding,

“(ii) the statutory authority under which such investigation, examination, or proceeding is being conducted,

“(iii) the name or names of the issuer, investment company, or public accounting firm to which such return information relates,

“(iv) the taxable period or periods to which such return information relates, and

“(v) the specific reason or reasons why such disclosure is, or may be, relevant to such investigation, examination or proceeding.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures and to information and document requests made after the date of the enactment of this Act.

SEC. 204. DISCLOSURE OF INFORMATION TO CONGRESS.

(a) DISCLOSURE BY TAX RETURN PREPARER.—

(1) IN GENERAL.—Subparagraph (B) of section 7216(b)(1) (relating to disclosures) is amended to read as follows:

“(B) pursuant to any 1 of the following documents, if clearly identified:

“(i) The order of any Federal, State, or local court of record.

“(ii) A subpoena issued by a Federal or State grand jury.

“(iii) An administrative order, summons, or subpoena which is issued in the performance of its duties by—

“(I) any Federal agency, including Congress or any committee or subcommittee thereof, or

“(II) any State agency, body, or commission charged under the laws of the State or a political subdivision of the State with the licensing, registration, or regulation of tax return preparers.”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to disclosures made after the date of the enactment of this Act pursuant to any document in effect on or after such date.

(b) DISCLOSURE BY SECRETARY.—Paragraph (2) of section 6104(a) (relating to inspection of applications for tax exemption or notice of status) is amended to read as follows:

“(2) INSPECTION BY CONGRESS.—

“(A) IN GENERAL.—Upon receipt of a written request from a committee or subcommittee of Congress, copies of documents related to a determination by the Secretary to grant, deny, revoke, or restore an organization’s exemption from taxation under section 501 or 527 shall be provided to such committee or subcommittee, including any application, notice of status, or supporting information provided by such organization to the Internal Revenue Service; any letter, analysis or other document produced by or for the Internal Revenue Service evaluating, determining, explaining, or relating to the tax exempt status of such organization (other than returns, unless such returns are available to the public under this section or section 6103 or 6110); and any communication between the Internal Revenue Service and any other party relating to the tax exempt status of such organization.

“(B) ADDITIONAL INFORMATION.—Section 6103(f) shall apply with respect to—

“(i) the application for exemption of any organization described in subsection (c) or (d) of section 501 which is exempt from taxation under section 501(a) for any taxable year or notice of status of any political organization which is exempt from taxation under section 527 for any taxable year, and any application referred to in subparagraph (B) of subsection (a)(1) of this section, and

“(ii) any other papers which are in the possession of the Secretary and which relate to such application, as if such papers constituted returns.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures and to information and document requests made after the date of the enactment of this Act.

SEC. 205. CONTINGENT FEE PROHIBITION.

(a) IN GENERAL.—Section 6701, as amended by this Act, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively,

(2) by striking “subsection (a).” in paragraphs (2) and (3) of subsection (g) (as redesignated by paragraph (1)) and inserting “subsection (a) or (f).”, and

(3) by inserting after subsection (e) the following new subsection:

“(f) CONTINGENT FEE PROHIBITION.—

“(1) IN GENERAL.—Any person who makes an agreement for, charges, or collects a fee which is for services provided in connection with the internal revenue laws, and which is contingent upon the actual or projected achievement of—

“(A) Federal tax savings or benefits, or

“(B) losses which can be used to offset other taxable income,

shall pay a penalty with respect to each such fee activity in the amount determined under subsection (b).

“(2) REGULATIONS.—The Secretary may issue rules to carry out the purposes of this subsection and may provide for exceptions for fee arrangements that are in the public interest.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fee agreements, charges, and collections made after the date of the enactment of this Act.

SEC. 206. EFFECT OF THE SENATE ON TAX ENFORCEMENT PRIORITIES.

It is the sense of the Senate that additional funds should be appropriated for Internal Revenue Service enforcement efforts and that the Internal Revenue Service should devote proportionately more of its enforcement funds—

(1) to combat the promotion of abusive tax shelters for corporations and high net worth individuals and the aiding and abetting of tax evasion,

(2) to stop accounting, law, and financial firms involved in such promotion and aiding and abetting, and

(3) to combat the use of offshore financial accounts to conceal taxable income.

TITLE III—REQUIRING ECONOMIC SUBSTANCE

SEC. 301. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 (relating to definitions) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

“(1) GENERAL RULES.—

“(A) IN GENERAL.—In applying the economic substance doctrine, the determination of whether a transaction satisfies such doctrine shall be made as provided in this subsection.

“(B) APPLICATION OF ECONOMIC SUBSTANCE DOCTRINE.—For purposes of subparagraph (A)—

“(i) IN GENERAL.—A transaction satisfies the economic substance doctrine only if—

“(I) the transaction changes in a meaningful way, apart from Federal tax effects (and, if there are any Federal tax effects, also apart from any foreign, State, or local tax effects), the taxpayer’s economic position, and

“(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax or achievement of a tax benefit.

“(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as satisfying the economic substance doctrine by reason of having a potential for profit unless—

“(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

“(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

“(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

“(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

“(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the

deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

“(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

“(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party’s economic income or gain, or

“(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

“(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

“(A) ECONOMIC SUBSTANCE DOCTRINE.—The term ‘economic substance doctrine’ means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

“(B) TAX-INDIFFERENT PARTY.—The term ‘tax-indifferent party’ means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person’s liability under subtitle A.

“(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

“(D) TREATMENT OF LESSORS.—In applying subclause (I) of paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

“(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

“(I) depreciation,

“(II) any tax credit, or

“(III) any other deduction as provided in guidance by the Secretary, and

“(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

“(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

“(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

SEC. 302. ACCURACY-RELATED PENALTY FOR LISTED TRANSACTIONS AND OTHER POTENTIALLY ABUSIVE TAX SHELTERS HAVING A SIGNIFICANT TAX AVOIDANCE PURPOSE.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662 the following new section:

“SEC. 6662A. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERSTATEMENTS WITH RESPECT TO POTENTIALLY ABUSIVE TAX SHELTER.

“(a) IMPOSITION OF PENALTY.—If a taxpayer has a potentially abusive tax shelter understatement for any taxable year, there shall be added to the tax an amount equal to 20 percent of the amount of such understatement.

“(b) POTENTIALLY ABUSIVE TAX SHELTER UNDERSTATEMENT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘potentially abusive tax shelter understatement’ means the sum of—

“(A) the product of—

“(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item to which this section applies and the taxpayer’s treatment of such item (as shown on the taxpayer’s return of tax), and

“(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

“(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer’s treatment of an item to which this section applies (as shown on the taxpayer’s return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

“(2) ITEMS TO WHICH SECTION APPLIES.—This section shall apply to any item which is attributable to—

“(A) any listed transaction, and

“(B) any potentially abusive tax shelter (other than a listed transaction) if a significant purpose of such transaction is the avoidance or evasion of Federal income tax.

“(c) HIGHER PENALTY FOR NONDISCLOSED LISTED AND OTHER AVOIDANCE TRANSACTIONS.—

“(1) IN GENERAL.—Subsection (a) shall be applied by substituting ‘30 percent’ for ‘20 percent’ with respect to the portion of any potentially abusive tax shelter understatement with respect to which the requirement of section 6664(d)(2)(A) is not met.

“(2) RULES APPLICABLE TO ASSERTION AND COMPROMISE OF PENALTY.—

“(A) IN GENERAL.—Only upon the approval by the Chief Counsel for the Internal Revenue Service or the Chief Counsel’s delegate at the national office of the Internal Revenue Service may a penalty to which paragraph (1) applies be included in a 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals. If such a letter is provided to the taxpayer, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

“(B) APPLICABLE RULES.—The rules of paragraphs (2), (3), (4), and (5) of section 6707A(d) shall apply for purposes of subparagraph (A).

“(d) DEFINITIONS OF POTENTIALLY ABUSIVE TAX SHELTER AND LISTED TRANSACTION.—For purposes of this section, the terms ‘potentially abusive tax shelter’ and ‘listed transaction’ have the respective meanings given to such terms by section 6707A(c).

“(e) SPECIAL RULES.—

“(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

“(A) the amount of such understatement (determined without regard to this para-

graph) shall be increased by the aggregate amount of potentially abusive tax shelter understatements and noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

“(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of potentially abusive tax shelter understatements and noneconomic substance transaction understatements.

“(2) COORDINATION WITH OTHER PENALTIES.—

“(A) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a potentially abusive tax shelter understatement and a noneconomic substance transaction understatement.

“(B) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6662B or 6663.

“(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any potentially abusive tax shelter understatement or noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.

“(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term ‘noneconomic substance transaction understatement’ has the meaning given such term by section 6662B(c).

“(5) CROSS REFERENCE.—

“For reporting of section 6662A(c) penalty to the Securities and Exchange Commission, see section 6707A(e).”

(b) DETERMINATION OF OTHER UNDERSTATEMENTS.—Subparagraph (A) of section 6662(d)(2) is amended by adding at the end the following flush sentence:

“The excess under the preceding sentence shall be determined without regard to items to which section 6662A applies and without regard to items with respect to which a penalty is imposed by section 6662B.”

(c) REASONABLE CAUSE EXCEPTION.—

(1) IN GENERAL.—Section 6664 is amended by adding at the end the following new subsection:

“(d) REASONABLE CAUSE EXCEPTION FOR POTENTIALLY ABUSIVE TAX SHELTER UNDERSTATEMENTS.—

“(1) IN GENERAL.—No penalty shall be imposed under section 6662A with respect to any portion of a potentially abusive tax shelter understatement if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith with respect to such portion.

“(2) SPECIAL RULES.—Paragraph (1) shall not apply to any potentially abusive tax shelter understatement unless—

“(A) the relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under section 6011,

“(B) there is or was substantial authority for such treatment, and

“(C) the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

A taxpayer failing to adequately disclose in accordance with section 6011 shall be treated as meeting the requirements of subparagraph

(A) if the penalty for such failure was rescinded under section 6707A(d).

“(3) RULES RELATING TO REASONABLE BELIEF.—For purposes of paragraph (2)(C)—

“(A) IN GENERAL.—A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief—

“(i) is based on the facts and law that exist at the time the return of tax which includes such tax treatment is filed, and

“(ii) relates solely to the taxpayer’s chances of success on the merits of such treatment and does not take into account the possibility that a return will not be audited, such treatment will not be raised on audit, or such treatment will be resolved through settlement if it is raised.

“(B) CERTAIN OPINIONS MAY NOT BE RELIED UPON.—

“(i) IN GENERAL.—An opinion of a tax advisor may not be relied upon to establish the reasonable belief of a taxpayer if—

“(I) the tax advisor is described in clause (ii), or

“(II) the opinion is described in clause (iii).

“(ii) DISQUALIFIED TAX ADVISORS.—A tax advisor is described in this clause if the tax advisor—

“(I) is a material advisor (within the meaning of section 6111(b)(1)) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates,

“(II) is compensated directly or indirectly by a material advisor with respect to the transaction,

“(III) has a fee arrangement with respect to the transaction which is contingent on all or part of the intended tax benefits from the transaction being sustained, or

“(IV) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

“(iii) DISQUALIFIED OPINIONS.—For purposes of clause (i), an opinion is disqualified if the opinion—

“(I) is based on unreasonable factual or legal assumptions (including assumptions as to future events),

“(II) unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person,

“(III) does not identify and consider all relevant facts, or

“(IV) fails to meet any other requirement as the Secretary may prescribe.”

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 6664 is amended by inserting “FOR UNDERPAYMENTS” after “EXCEPTION”.

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 461(i)(3) is amended by striking “section 6662(d)(2)(C)(iii)” and inserting “section 1274(b)(3)(C)”.

(2) Paragraph (3) of section 1274(b) is amended—

(A) by striking “(as defined in section 6662(d)(2)(C)(iii))” in subparagraph (B)(i), and

(B) by adding at the end the following new subparagraph:

“(C) TAX SHELTER.—For purposes of subparagraph (B), the term ‘tax shelter’ means—

“(i) a partnership or other entity,

“(ii) any investment plan or arrangement, or

“(iii) any other plan or arrangement,

if a significant purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax.”

(3) Section 6662(d)(2) is amended by striking subparagraphs (C) and (D).

(4) Section 6664(c)(1) is amended by striking “this part” and inserting “section 6662 or 6663”.

(5) Subsection (b) of section 7525 is amended by striking “section 6662(d)(2)(C)(iii)” and inserting “section 1274(b)(3)(C)”.

(6)(A) The heading for section 6662 is amended to read as follows:

“SEC. 6662. IMPOSITION OF ACCURACY-RELATED PENALTY ON UNDERPAYMENTS.”

(B) The table of sections for part II of subchapter A of chapter 68 is amended by striking the item relating to section 6662 and inserting the following new items:

“Sec. 6662. Imposition of accuracy-related penalty on underpayments.

“Sec. 6662A. Imposition of accuracy-related penalty on understatements with respect to potentially abusive tax shelter.”

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 303. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68, as amended by section 302, is amended by inserting after section 6662A the following new section:

“SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

“(a) IMPOSITION OF PENALTY.—If a taxpayer has a noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

“(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting ‘20 percent’ for ‘40 percent’ with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant information affecting the tax treatment of the item is adequately disclosed in the return or a statement attached to the return.

“(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

“(1) IN GENERAL.—The term ‘noneconomic substance transaction understatement’ means the sum of—

“(A) the product of—

“(i) the amount of the increase (if any) in taxable income which results from a difference between the proper tax treatment of an item attributable to a noneconomic substance transaction and the taxpayer’s treatment of such item (as shown on the taxpayer’s return of tax), and

“(ii) the highest rate of tax imposed by section 1 (section 11 in the case of a taxpayer which is a corporation), and

“(B) the amount of the decrease (if any) in the aggregate amount of credits determined under subtitle A which results from a difference between the taxpayer’s treatment of an item attributable to a noneconomic substance transaction (as shown on the taxpayer’s return of tax) and the proper tax treatment of such item.

For purposes of subparagraph (A), any reduction of the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income.

“(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term ‘noneconomic substance transaction’ means any transaction if—

“(A) there is a lack of economic substance (within the meaning of section 7701(n)(1)) for

the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(n)(2), or

“(B) the transaction fails to meet the requirements of any similar rule of law.

“(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

“(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

“(2) DISCRETION.—The exercise of authority under paragraph (1) shall be at the sole discretion of the Commissioner and may be delegated only to the head of the Office of Tax Shelter Analysis. The Commissioner, in the Commissioner’s sole discretion, may establish a procedure to determine if a penalty should be referred to the Commissioner or the head of such Office for a determination under paragraph (1).

“(3) NO APPEAL.—Notwithstanding any other provision of law, any determination under this subsection may not be reviewed in any administrative or judicial proceeding.

“(4) RECORDS.—If a penalty is rescinded under paragraph (1), the Commissioner shall place in the file in the Office of the Commissioner the opinion of the Commissioner or the head of the Office of Tax Shelter Analysis with respect to the determination, including—

“(A) the facts and circumstances of the transaction,

“(B) the reasons for the rescission, and

“(C) the amount of the penalty rescinded.

“(5) REPORT.—The Commissioner shall each year report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

“(A) a summary of the total number and aggregate amount of penalties imposed, and rescinded, under this section, and

“(B) a description of each penalty rescinded under this subsection and the reasons therefor.

“(e) PENALTY REPORTED TO SEC.—In the case of a person—

“(1) which is required to file periodic reports under section 13 or 15(d) of the Securities Exchange Act of 1934 or is required to be consolidated with another person for purposes of such reports, and

“(2) which is required to pay a penalty under this section with respect to any noneconomic substance transaction,

the requirement to pay such penalty shall be disclosed in such reports filed by such person for such periods as the Secretary shall specify. Failure to make a disclosure in accordance with the preceding sentence shall be treated as a failure to which the penalty under subsection (b) applies.

“(f) SPECIAL RULES.—

“(1) COORDINATION WITH PENALTIES, ETC., ON OTHER UNDERSTATEMENTS.—In the case of an understatement (as defined in section 6662(d)(2))—

“(A) the amount of such understatement (determined without regard to this paragraph) shall be increased by the aggregate amount of noneconomic substance transaction understatements for purposes of determining whether such understatement is a substantial understatement under section 6662(d)(1), and

“(B) the addition to tax under section 6662(a) shall apply only to the excess of the amount of the substantial understatement (if any) after the application of subparagraph (A) over the aggregate amount of noneconomic substance transaction understatements.

“(2) COORDINATION WITH OTHER PENALTIES.—

“(A) IN GENERAL.—Except as otherwise provided in subparagraph (C), the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

“(B) APPLICATION OF FRAUD PENALTY.—References to an underpayment in section 6663 shall be treated as including references to a noneconomic substance transaction understatement.

“(C) NO DOUBLE PENALTY.—This section shall not apply to any portion of an understatement on which a penalty is imposed under section 6663.

“(3) SPECIAL RULE FOR AMENDED RETURNS.—Except as provided in regulations, in no event shall any tax treatment included with an amendment or supplement to a return of tax be taken into account in determining the amount of any noneconomic substance transaction understatement if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted by the Secretary regarding the examination of the return or such other date as is specified by the Secretary.”.

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68, as amended by section 302, is amended by inserting after the item relating to section 6662 the following new item:

“Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered after the date of the enactment of this Act.

SEC. 304. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163 (relating to deduction for interest) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

“(m) INTEREST ON UNPAID TAXES ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.—No deduction shall be allowed under this chapter for any interest paid or accrued under section 6601 on any underpayment of tax which is attributable to any noneconomic substance transaction understatement (as defined in section 6662A(c)(1)).”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions in taxable years beginning after the date of the enactment of this Act.

TITLE IV—DETERRING UNCOOPERATIVE TAX HAVENS

SEC. 401. DISCLOSING PAYMENTS TO PERSONS IN UNCOOPERATIVE TAX HAVENS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6038C the following new section:

“SEC. 6038D. DETERRING UNCOOPERATIVE TAX HAVENS THROUGH LISTING AND REPORTING REQUIREMENTS.

“(a) IN GENERAL.—Each United States person who transfers money or other property directly or indirectly to any uncooperative tax haven, to any financial institution licensed by or operating in any uncooperative tax haven, or to any person who is a resident of any uncooperative tax haven shall furnish to the Secretary, at such time and in such manner as the Secretary shall by regulation prescribe, such information with respect to such transfer as the Secretary may require.

“(b) EXCEPTIONS.—Subsection (a) shall not apply to a transfer by a United States person if the amount of money (and the fair market value of property) transferred is less than

\$10,000. Related transfers shall be treated as 1 transfer for purposes of this subsection.

“(c) UNCOOPERATIVE TAX HAVEN.—For purposes of this section—

“(1) IN GENERAL.—The term ‘uncooperative tax haven’ means any foreign jurisdiction which is identified on a list maintained by the Secretary under paragraph (2) as being a jurisdiction—

“(A) which imposes no or nominal taxation either generally or on specified classes of income, and

“(B) has corporate, business, bank, or tax secrecy or confidentiality rules and practices, or has ineffective information exchange practices which, in the judgment of the Secretary, effectively limit or restrict the ability of the United States to obtain information relevant to the enforcement of this title.

“(2) MAINTENANCE OF LIST.—Not later than November 1 of each calendar year, the Secretary shall issue a list of foreign jurisdictions which the Secretary determines qualify as uncooperative tax havens under paragraph (1).

“(3) INEFFECTIVE INFORMATION EXCHANGE PRACTICES.—For purposes of paragraph (1), a jurisdiction shall be deemed to have ineffective information exchange practices if the Secretary determines that during any taxable year ending in the 12-month period preceding the issuance of the list under paragraph (2)—

“(A) the exchange of information between the United States and such jurisdiction was inadequate to prevent evasion or avoidance of United States income tax by United States persons or to enable the United States effectively to enforce this title, or

“(B) such jurisdiction was identified by an intergovernmental group or organization of which the United States is a member as uncooperative with international tax enforcement or information exchange and the United States concurs in the determination.

“(d) PENALTY FOR FAILURE TO FILE INFORMATION.—If a United States person fails to furnish the information required by subsection (a) with respect to any transfer within the time prescribed therefor (including extensions), such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 20 percent of the amount of such transfer.

“(e) SIMPLIFIED REPORTING.—The Secretary may by regulations provide for simplified reporting under this section for United States persons making large volumes of similar payments.

“(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.”.

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6038C the following new item:

“Sec. 6038D. Deterring uncooperative tax havens through listing and reporting requirements.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date which is 180 days after the date of the enactment of this Act.

SEC. 402. DETERRING UNCOOPERATIVE TAX HAVENS BY RESTRICTING ALLOWABLE TAX BENEFITS.

(a) LIMITATION ON DEFERRAL.—

(1) IN GENERAL.—Subsection (a) of section 952 (defining subpart F income) is amended by striking “and” at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting “, and”, and by inserting after paragraph (5) the following new paragraph:

“(6) an amount equal to the applicable fraction (as defined in subsection (e)) of the income of such corporation other than income which—

“(A) is attributable to earnings and profits of the foreign corporation included in the gross income of a United States person under section 951 (other than by reason of this paragraph or paragraph (3)(A)(i)), or

“(B) is described in subsection (b).”.

(2) APPLICABLE FRACTION.—Section 952 is amended by adding at the end the following new subsection:

“(e) IDENTIFIED TAX HAVEN INCOME WHICH IS SUBPART F INCOME.—

“(1) IN GENERAL.—For purposes of subsection (a)(6), the term ‘applicable fraction’ means the fraction—

“(A) the numerator of which is the aggregate identified tax haven income for the taxable year, and

“(B) the denominator of which is the aggregate income for the taxable year which is from sources outside the United States.

“(2) IDENTIFIED TAX HAVEN INCOME.—For purposes of paragraph (1), the term ‘identified tax haven income’ means income for the taxable year which is attributable to a foreign jurisdiction for any period during which such jurisdiction has been identified as an uncooperative tax haven under section 6038D(c).

“(3) REGULATIONS.—The Secretary shall prescribe regulations similar to the regulations issued under section 999(c) to carry out the purposes of this subsection.”.

(b) DENIAL OF FOREIGN TAX CREDIT.—Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

“(l) REDUCTION OF FOREIGN TAX CREDIT, ETC., FOR IDENTIFIED TAX HAVEN INCOME.—

“(1) IN GENERAL.—Notwithstanding any other provision of this part—

“(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) to any foreign jurisdiction if such taxes are with respect to income attributable to a period during which such jurisdiction has been identified as an uncooperative tax haven under section 6038D(c), and

“(B) subsections (a), (b), (c), and (d) of section 904 and sections 902 and 960 shall be applied separately with respect to all income of a taxpayer attributable to periods described in subparagraph (A) with respect to all such jurisdictions.

“(2) TAXES ALLOWED AS A DEDUCTION, ETC.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.

“(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations which treat income paid through 1 or more entities as derived from a foreign jurisdiction to which this subsection applies if such income was, without regard to such entities, derived from such jurisdiction.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

By Ms. COLLINS (for herself, Mr. BAYH, Mrs. DOLE, and Mr. GRAMHAM of South Carolina):

S. 2212. A bill to amend title VII of the Tariff Act of 1930 to provide that the provisions relating to countervailing duties apply to nonmarket economy countries; to the Committee on Finance.

Ms. COLLINS. Mr. President, Our Nation's manufacturers can compete against the best in the world, but they cannot compete against nations that provide huge subsidies and other unfair advantages to their producers. I hear from manufacturers in my State time and time again whose efforts to compete successfully in the global economy simply cannot overcome the practices of illegal pricing and subsidies of nations such as China. The results of these unfair practices are lost jobs, shuttered factories, and decimated communities.

Our Nation's trade remedy laws are intended to give American industries and their employees relief from the effects of illegal trade practices. Yet, while U.S. anti-dumping laws can be currently applied to non-market economies, countervailing duty laws cannot. It is time that this was changed.

This is why I am introducing the "Stopping Overseas Subsidies Act." This bill revises current trade remedy laws to ensure that U.S. countervailing duty laws apply to imports from non-market economies. It is simply not fair to prevent U.S. industries from seeking redress from these unfair trade practices because our trade remedy laws are outdated.

Over the past two decades, there have been significant economic changes in many of the countries classified as non-market economies. This is particularly true in China, one of our largest trading partners and the country with which the United States currently runs its largest trade deficit.

At the time our Nation's countervailing duty laws were approved in 1979, it was impracticable to apply these laws to China. In 1979, China's economy was still centrally planned, and most of its economic output was directed and controlled by the state, which set production goals, controlled prices, and allocated the country's resources. When an entire economy is controlled by the government, it is difficult, if not impossible, to determine what defines a government subsidy that causes harm to U.S. industries.

But beginning in the early 1980's and continuing today, China has undertaken major economic reforms. Today, China's economy is a far cry from being completely state-controlled. Government price controls on a wide range of products have been eliminated. Many enterprises and even entire industries have been allowed to operate and compete in an economic system that has elements of a free market. Many coastal regions and coastal cities in China have been designated as so-called "open" cities and development zones, where there is a free market and tax and trade incentives are offered to attract foreign investment. And, of course, China has taken steps toward fully integrating into the global trading system by joining to the World Trade Organization and by working toward the establishment of a modern commercial, financial, legal, and regulatory infrastructure.

The problem is not China's economic liberalization and modernization. The problem is this: now that China has the capacity to be a key international economic player, the country has repeatedly refused to comply with standard international trading rules and practices. And these violations include the use of subsidies and other economic incentives that are designed to give its producers an unfair competitive advantage.

The most glaringly obvious subsidy comes in the form of currency manipulation. By keeping the Chinese yuan pegged to the U.S. dollar at artificially low levels, the Chinese undervalue the prices of their exports. Not only does this practice provide their producers with a price advantage, but also it violates the International Monetary Fund and WTO rules. The Chinese government also reimburses many enterprises for their operating losses and provides loans to uncreditworthy companies.

Currently, U.S. industries have no direct recourse to combat these unfair practices. They instead must rely upon government-to-government negotiations or the dispute settlement processes of international organizations such as the WTO. While these channels might eventually lead to relief, it usually takes years to see results—and by that time, that industry could already be decimated.

Mr. President, unfair market conditions cannot continue to cause our manufacturers to hemorrhage jobs. No State understands this more than my home State of Maine. According to a study by the National Association of Manufacturers, on a percentage basis, Maine has lost more manufacturing jobs in the past three years than any other State.

There are many reasons for manufacturing job losses, including heavy tax and regulatory burdens. This is why I recently introduced a bill that would provide a variety of tax incentives for our Nation's manufacturers. However, without a level international playing field, tax reductions will not be enough to stop the flight of U.S. manufacturing jobs.

Industries across Maine that produce products ranging from paper to footwear to furniture are being harmed by unfair trade practices, and it is time that we put a stop to it. I ask you to join me in supporting the SOS bill to ensure that all countries are held accountable for their trade practices.

By Mr. ROCKEFELLER:

S. 2213. A bill to amend part A of title IV of the Social Security Act to require the Secretary of Health and Human Services to conduct research on indicators of child well-being; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, I am pleased to introduce legislation today designed to enhance child well-being in every State by collecting data on a State-by-State basis to provide information to advocates and policy

makers about the well-being of children. My hope is that this legislation could be incorporated into a welfare reform reauthorization package. I believe that the Senate should reauthorize our welfare program, known as Temporary Assistance to Needy Families (TANF), and we should do it soon. But when we reauthorize TANF we must significantly invest in child care which is essential for parents to move from welfare to work, and to be successful on the job once they leave the official welfare rolls.

In 1996 this body took a bold step forward in reforming welfare. The driving force behind this reform was to promote work and self-sufficiency for families and to provide flexibility to States to achieve these goals.

States have used this flexibility to design different programs that work better for families who rely on them. Because of vast variation among State programs, there is an obvious need for research on child well-being for each State. We currently use the Survey of Income and Program Participation (SIPP) to evaluate the progress of welfare. It is an important national longitudinal study designed to provide rich, detailed data; the kinds of data most useful to academic researchers. It does not, however, provide States with good, timely data to help them more effectively accomplish the goals set forth in welfare reform.

This bill, the State Child Well Being Research Act of 2004, is intended to fill this information gap by collecting timely, State-specific data that can be used by policy-makers, researchers, and child advocates to assess the well being of children. It would require that a survey examine the physical and emotional health of children, adequately represent the experiences of families in individual States, be consistent across States, be collected annually, articulate results in easy to understand terms, and focus on low-income children and families.

The proposed legislation will provide data for all States, including small rural States like West Virginia. Further, this bill avoids some of the other problems that plague the current system by making data files easier to use and more readily available. As a result, the information will be more useful for policy-makers managing welfare reform and programs for children and families. When we reauthorize welfare reform, it will be essential for us to make a modest investment in research for every State.

Several private charitable foundations, including the Annie E. Casey, John D. and Catherine T. MacArthur, and McKnight foundations have written Chairman GRASSLEY and Senator BAUCUS in support of such research. These foundations have offered to form a partnership to provide outreach and support and to guarantee that the data

collected would be broadly disseminated. This type of public-private partnership helps to leverage additional resources for children and families and increases the study's impact.

One of the most important ways that Congress can demonstrate its commitment to welfare reform and attempt to help States reach the goals outlined in 1996 is to incorporate a strong research component in the welfare reform reauthorization bill. Since each State has used its flexibility to creative innovative welfare reform programs, and many are quite different, we need State-by-State data on basic aspects of child well-being. I hope that my colleagues will support this bill so that we can give States the information they need to monitor and improve child well-being.

By Mr. BURNS:

S. 2214. A bill to designate the facility of the United States Postal Service located at 3150 Great Northern Avenue in Missoula, Montana, as the "Mike Mansfield Post Office"; to the Committee on Governmental Affairs.

Mr. BURNS. Mr. President, it is my honor to present this bill to designate the United States Postal Service facility at 3150 Great Northern Avenue in Missoula, MT as the "Mike Mansfield Post Office."

I rise today not just as a Republican honoring a Democrat, but rather as a Montanan recognizing the most beloved political figure of our history. Mr. Mansfield holds a special place in the hearts of all Montanans, a man whose wisdom, humility, and decency have been sorely missed.

Michael Joseph Mansfield was born in New York City on March 16, 1903. Following the death of his mother at age 7, Mike was sent to Great Falls, MT to live with an aunt and uncle.

As World War I developed, the 14-year-old Mansfield saw an opportunity to serve his country, and lied about his age in order to join the U.S. Navy. He eventually enlisted in the Army and Marine Corps as well. During this service he was stationed in the Philippines and China, a time that marked the beginning of a lifelong love for the continent, its people, and their culture.

After being honorably discharged from the Marines, Mike Mansfield returned to Montana as a 19-year-old lacking a high school education. He found a job in the Butte mines, shoveling rock as a 'mucker.' It was during his time in Butte that Mr. Mansfield met his lifetime partner and companion, Maureen Hayes. It was Maureen who saw in Mike his enormous potential and convinced him to go to college. With her financial support, Mansfield obtained his high school equivalency, B.A., and M.A. from the Montana State University, now the University of Montana. Mr. Mansfield taught Latin American and East Asian history for 8 years at the University, retaining lifelong tenure as Professor of History.

Mr. Mansfield began his extraordinary public service career in 1942 when he was elected to the U.S. House of Representatives. He served four more terms before being elected to the Senate in 1952. Within 4 years, he was elected majority whip and in 1961 he was chosen as the Senate Majority Leader. Mike would go on to hold this position for 17 years, longer than any other man in the history of this great body.

As Senate Majority Leader, Mr. Mansfield is remembered as a truly unique figure, a pragmatist whose sensibility, practicality, and unrelenting pursuit of results almost always transcended ideological concerns. More Senate leader than Majority Leader, Mansfield preferred not to draw a metaphorical line in the sand. Instead, he sought to guide the body as a whole to a fair and agreeable determination.

In 1977, upon his retirement from the Senate, Mr. Mansfield was appointed Ambassador to Japan by President Carter; a post he held through 1989. This position offered Mike a chance to utilize his vast experience in Asian affairs, in a region that he truly loved. In the spirit of this admiration, the Maureen and Mike Mansfield Foundation continues to encourage dialogue and cooperation between the United States and Asia.

Ladies and gentlemen of the Senate, this dedication of a postal facility is but a small token of gratitude for the many years of exceptional service given to this body, this Nation, and Montana by this wonderful man. The ever modest and humble Mansfield would have shied at such a tribute; we might even expect him to offer the names of people more deserving of the honor than he. In truth, I can think of no one more deserving of praise than Mike Mansfield, a true hero of the Senate.

By Mr. REED (for himself, Mr. DEWINE, Mrs. CLINTON, and Mr. SMITH):

S. 2215. A bill to amend the Higher Education Act of 1965 to provide funds for campus mental and behavioral health service centers; to the Committee on Health, Education, Labor, and Pensions.

Mr. REED. Mr. President, I rise today to introduce the Campus Care and Counseling Act along with my colleague from Ohio, Senator DEWINE, my colleague from Oregon, Senator SMITH and my colleague from New York, Senator CLINTON. The recent rash of suicides on college campuses has highlighted a mental health crisis. Just this past week, Diana Chien, a 19 year old student at New York University ended her life by jumping off a building. Our own colleagues, the Senator from Oregon, suffered a tragic loss when his son, Garret, took his life last September. Suicides take the lives of over 4,000 children and young adults annually. It is now the third leading cause of death among 10-24 year olds.

The rate of suicide has tripled from 1952 to 1995. How many more of our children will be lost before we take action to prevent their untimely demise? When will we start to say to them that there is an answer; that suicide is not the way out; that we can help them feel better; that they can live happier and healthier lives?

College is a time of great intellectual development—and it is also a time of exponential personal and interpersonal growth and change. When children go off to college, we need to be sure that they are going to a place that will help them reach their boundless potential. We also need to make sure that it will also support them through the transition to adulthood and during their greatest hour of need. Additionally, many more adults are going to college, and they too face challenges, particularly in balancing school, work, and family responsibilities. We can and should do more to address the significant lack in this area.

A Chronicle of Higher Education survey found that rates for depression in college freshmen have nearly doubled from 8.2 percent to 16.3 percent. Without treatment, the Chronicle reports that "depressed adolescents are at risk for school failure, social isolation, promiscuity, self-medication with drugs and alcohol, and suicide." A 2003 Gallagher's Survey of Counseling Center Directors found that 85 percent of college counseling centers are reporting an increase in the number of students in need of services, 81 percent were concerned about increasing numbers of students with severe psychological problems, 67 percent reported a need for more psychiatric services, and 6.3 percent reported problems with growing demand for services without an appropriate increase in resources. Clearly, many students with serious needs do not have access to psychiatric or other mental and behavioral health services.

This is an issue that my office has been working on with the American Psychological Association since 2002. In light of the forthcoming debate on the Higher Education Act Reauthorization and the recent spate of college campus suicides, I am introducing the "Campus Care and Counseling Act." This bill amends the Higher Education Act to authorize \$10 million in peer-reviewed competitive grants to institutions of higher education to increase access and enhance mental and behavioral health services for our college students. Grants may be used for the prevention, screening, early intervention, assessment, treatment, management, and education activities related to mental and behavioral health problems. Taking into consideration that education creates awareness, these funds may also be used to educate parents, to hire staff, and to expand training. To address the stigma of mental illness, programs funded through this grant will need to focus their efforts on developing outreach strategies to reach those students most in need of services.

My colleagues in the Senate, this is an important bipartisan measure which will help to ensure that our nation's college students will have access to quality mental and behavioral health care so that they receive the help needed to not only survive through their difficult times in college, but also to excel and accomplish all that is within their reach. I want to also thank the American Psychiatric Association and other organizations for their assistance in shaping this legislation. I urge my colleagues to join myself and Senators DEWINE and SMITH in enacting this important legislation.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD.

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

S. 2215

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 "Campus Care and Counseling Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) In a recent report, a startling 85 percent of college counseling centers revealed an increase in the number of students they see with psychological problems. Furthermore, the American College Health Association found that 61 percent of college students reported feeling hopeless, 45 percent said they felt so depressed they could barely function, and 9 percent felt suicidal.

(2) There is clear evidence of an increased incidence of depression among college students. According to a survey described in the Chronicle of Higher Education (February 1, 2002), depression among freshmen has nearly doubled (from 8.2 percent to 16.3 percent). Without treatment, researchers recently noted that "depressed adolescents are at risk for school failure, social isolation, promiscuity, self medication with drugs and alcohol, and suicide—now the third leading cause of death among 10–24 year olds."

(3) Researchers who conducted the study "Changes in Counseling Center Client Problems Across 13 Years" (1989–2001) at Kansas State University stated that "students are experiencing more stress, more anxiety, more depression than they were a decade ago." (The Chronicle of Higher Education, February 14, 2003).

(4) According to the 2001 National Household Survey on Drug Abuse, 20 percent of full-time undergraduate college students use illicit drugs.

(5) The 2001 National Household Survey on Drug Abuse also reported that 18.4 percent of adults aged 18 to 24 are dependent on or abusing illicit drugs or alcohol. In addition, the study found that "serious mental illness is highly correlated with substance dependence or abuse. Among adults with serious mental illness in 2001, 20.3 percent were dependent on or abused alcohol or illicit drugs, while the rate among adults without serious mental illness was only 6.3 percent."

(6) A 2003 Gallagher's Survey of Counseling Center Directors found that 81 percent were concerned about the increasing number of students with more serious psychological problems, 67 percent reported a need for more psychiatric services, and 63 percent reported problems with growing demand for services without an appropriate increase in resources.

(7) The International Association of Counseling Services accreditation standards recommend 1 counselor per 1,000 to 1,500 students. According to the 2003 Gallagher's Survey of Counseling Center Directors, the ratio of counselors to students is as high as 1 counselor per 2,400 students at institutions of higher education with more than 15,000 students.

SEC. 3. MENTAL AND BEHAVIORAL HEALTH SERVICES ON CAMPUS.

Part B of title I of the Higher Education Act of 1965 (20 U.S.C. 1011 et seq.) is amended by inserting after section 120 the following:

"SEC. 120A. MENTAL AND BEHAVIORAL HEALTH SERVICES ON CAMPUS.

"(a) PURPOSE.—It is the purpose of this section to increase access to, and enhance the range of, mental and behavioral health services for students so as to ensure that college students have the support necessary to successfully complete their studies.

"(b) PROGRAM AUTHORIZED.—From funds appropriated under subsection (j), the Secretary shall award competitive grants to institutions of higher education to create or expand mental and behavioral health services to students at such institutions, to provide such services, and to develop best practices for the delivery of such services. Such grants shall, subject to the availability of such appropriations, be for a period of 3 years.

"(c) ELIGIBLE GRANT RECIPIENTS.—Any institution of higher education that seeks to provide, or provides, mental and behavioral health services to students is eligible to apply, on behalf of such institution's treatment provider, for a grant under this section. Treatment providers may include entities such as—

- "(1) college counseling centers;
- "(2) college and university psychological service centers;
- "(3) mental health centers;
- "(4) psychology training clinics;
- "(5) institution of higher education supported, evidence-based, mental health and substance abuse screening programs; and
- "(6) any other entity that provides mental and behavioral health services to students at an institution of higher education.

"(d) APPLICATIONS.—Each institution of higher education seeking to obtain a grant under this section shall submit an application to the Secretary. Each such application shall include—

- "(1) a description of identified mental and behavioral health needs of students at the institution of higher education;
- "(2) a description of currently available Federal, State, local, private, and institutional resources to address the needs described in paragraph (1) at the institution of higher education;
- "(3) an outline of program objectives and anticipated program outcomes, including an explanation of how the treatment provider at the institution of higher education will coordinate activities under this section with existing programs and services;
- "(4) the anticipated impact of funds provided under this section in improving the mental and behavioral health of students attending the institution of higher education;
- "(5) outreach strategies, including ways in which the treatment provider at the institution of higher education proposes to reach students, promote access to services, and address the range of needs of students;
- "(6) a proposed plan for reaching those students most in need of services;
- "(7) a plan to evaluate program outcomes and assess the services provided with funds under this section; and
- "(8) such additional information as is required by the Secretary.

"(e) PEER REVIEW OF APPLICATIONS.—

"(1) PANEL.—The Secretary shall provide the applications submitted under this section to a peer review panel for evaluation. With respect to each application, the peer review panel shall recommend the application for funding or for disapproval.

"(2) COMPOSITION OF PANEL.—

"(A) IN GENERAL.—The peer review panel shall be composed of—

"(i) experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications for grants under this section; and

"(ii) mental and behavioral health professionals and higher education professionals.

"(B) NON-FEDERAL GOVERNMENT EMPLOYEES.—A majority of the members of the peer review panel shall be individuals who are not employees of the Federal Government.

"(3) EVALUATION AND PRIORITY.—The peer review panel shall—

"(A) evaluate the applicant's proposal to improve current and future mental and behavioral health at the institution of higher education; and

"(B) give priority in recommending applications for funding to proposals that—

"(i) provide direct service to students, as described in subsection (f)(1);

"(ii) improve the mental and behavioral health of students at institutions of higher education with a counselor to student ratio greater than 1 to 1,500; or

"(iii) will best serve students based on the projected impact of the proposal on mental and behavioral health at the institution of higher education as well as the level of coordination of other resources to aid in the improvement of mental and behavioral health.

"(f) USE OF FUNDS.—Funds provided by a grant under this section may be used for 1 or more of the following activities:

"(1) Prevention, screening, early intervention, assessment, treatment, management, and education of mental and behavioral health problems of students enrolled at the institution of higher education.

"(2) Education of families to increase awareness of potential mental and behavioral health issues of students enrolled at the institution of higher education.

"(3) Hiring appropriately trained staff, including administrative staff.

"(4) Strengthening and expanding mental and behavioral health training opportunities in internship and residency programs, such as psychology doctoral and post-doctoral training.

"(5) Supporting the use of evidence-based and emerging best practices.

"(6) Evaluating and disseminating outcomes of mental and behavioral health services so as to provide information and training to other mental and behavioral health entities around the Nation that serve students enrolled in institutions of higher education.

"(g) ADDITIONAL REQUIRED ELEMENTS.—Each institution of higher education that receives a grant under this section shall—

"(1) provide annual reports to the Secretary describing the use of funds, the program's objectives, and how the objectives were met, including a description of program outcomes;

"(2) perform such additional evaluation as the Secretary may require, which may include measures such as—

"(A) increase in range of services provided;

"(B) increase in the quality of services provided;

"(C) increase in access to services;

"(D) college continuation rates;

"(E) decrease in college dropout rates; and

"(F) increase in college graduation rates; and

“(3) coordinate such institution’s program under this section with other related efforts on campus by entities concerned with the mental, health, and behavioral health needs of students.

“(h) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this section shall be used to supplement, and not supplant, Federal and non-Federal funds available for carrying out the activities described in this section.

“(i) LIMITATIONS.—

“(1) PERCENTAGE LIMITATIONS.—Not more than—

“(A) 5 percent of grant funds received under this section shall be used for administrative costs; and

“(B) 20 percent of grant funds received under this section shall be used for training costs.

“(2) PROHIBITION ON USE FOR CONSTRUCTION OR RENOVATION.—Grant funds received under this section shall not be used for construction or renovation of facilities or buildings.

“(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this section \$10,000,000 for fiscal year 2005 and such sums as may be necessary for each of the 4 succeeding fiscal years.”.

By Mr. FRIST:

S. 2217. A bill to improve the health of health disparity populations; to the Committee on Finance.

Mr. FRIST: Mr. President, today I am introducing additional legislation to address health disparities.

On February 12th I joined with Senator LANDRIEU, Senator COCHRAN, Senator DEWINE, Senator BOND and Senator TALENT to introduce the “Closing the Health Care Gap Act of 2004.” Today I am introducing similar legislation to that introduced several weeks ago with one significant addition. This additional provision directly addresses the problem of access to health insurance for low income Americans.

We know that millions of Americans still experience disparities in health outcomes as a result of ethnicity, race, gender, or limited access to quality health care. For example, disparity populations exhibit poorer health outcomes and have higher rates of HIV/AIDS, diabetes, infant mortality, cancer, heart disease, and other illnesses. African Americans and Native Americans die younger than any other racial or ethnic group. African Americans and Native American babies die at significantly higher rates than the rest of the population. African Americans, Hispanic Americans and Native Americans are at least twice as likely to suffer from diabetes and experience serious complications from diabetes.

These gaps are simply unacceptable. Every American deserves the best quality of health care possible, regardless of their race, ethnicity, gender, or where they live.

There is a growing awareness on the national level of the existence and importance of the serious disparities in the quality of health care that many minority and underserved Americans receive. And this presents us with an important opportunity to move forward.

The legislation we introduced on February 12th and the legislation I in-

troduce today does this by focusing on these 5 key areas: expanding access to quality health care; strengthening national efforts and coordination; helping increase the diversity of health professionals; promoting more aggressive health professional education intended to reduce barriers to care; and enhancing research to identify sources of racial, ethnic, and geographic disparities and assess promising intervention strategies.

However, the legislation I am introducing today goes farther. This legislation includes a provision based on President Bush’s proposal to provide refundable health insurance tax credits to lower income Americans. I believe that the improved access to affordable medical care fostered by this tax credit will be yet one more critical component to the overall effort to reduce disparities in health care for America’s vulnerable populations.

My intention is to continue to build awareness of these health care disparities and thereby provide the basis for bipartisan efforts to fight and reduce them. I think today’s bill introduction represents yet another key step in this process. It is my hope that, working together, members of this body can make substantial progress in reducing and eliminating disparities.

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

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

S. 2217

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Closing the Health Care Gap Act of 2004”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Findings.

TITLE I—IMPROVED HEALTH CARE QUALITY AND EFFECTIVE DATA COLLECTION AND ANALYSIS

Sec. 101. Standardized measures of quality health care.

Sec. 102. Data collection.

TITLE II—EXPANDED ACCESS TO QUALITY HEALTH CARE

Subtitle A—Access, Awareness, and Outreach

Sec. 201. Access and awareness grants.

Sec. 202. Innovative outreach programs.

Subtitle B—Refundable Health Insurance Credit

Sec. 211. Refundable health insurance costs credit.

Sec. 212. Advance payment of credit to issuers of qualified health insurance.

TITLE III—STRONG NATIONAL LEADERSHIP, COOPERATION, AND COORDINATION

Sec. 301. Office of Minority Health and Health Disparities.

TITLE IV—PROFESSIONAL EDUCATION, AWARENESS, AND TRAINING

Sec. 401. Workforce diversity and training.

Sec. 402. Higher education technical amendments.

Sec. 403. Model cultural competency curriculum development.

Sec. 404. Internet cultural competency clearinghouse.

TITLE V—ENHANCED RESEARCH

Sec. 501. Agency for Healthcare Research and Quality.

Sec. 502. National Institutes of Health.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Definitions.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The overall health of Americans has dramatically improved over the last century, and Americans are justifiably proud of the great strides that have been made in the health and medical sciences.

(2) As medical science and technology have advanced at a rapid pace, however, the health care delivery system has not been able to provide consistently high quality care to all Americans.

(3) In particular, people of lower socioeconomic status, racial and ethnic minorities, and medically underserved populations have experienced poor health and challenges in accessing high quality health care.

(4) Recent studies have raised significant questions regarding differences in clinical care provided to racial and ethnic minorities and other health disparity populations. These differences are often grouped together under the broad heading of “health disparities”.

(5) Studies indicate that a gap exists between ideal health care and the actual health care that some Americans receive.

(6) Data collection, analysis, and reporting by race, ethnicity, and primary language across federally supported health programs are essential for identifying, understanding the causes of, monitoring, and eventually eliminating health disparities.

(7) Current health related data collection and reporting activities largely reflect the efforts of the Department of Health and Human Services. Despite considerable efforts by the Department, data collection efforts governing racial, ethnic, and health disparity populations remain inconsistent and inadequate. They often quantify disparities but shed little light on their causes.

(8) Many Americans, and particularly racial and ethnic minorities and other health disparity populations, miss opportunities for preventive medical care. Similarly, management of chronic illnesses in these populations presents unique challenges to the nation’s health care system.

(9) The largest numbers of the medically underserved are white individuals, and many of them have the same health care access problems as do members of minority groups. Nearly 22,000,000 white individuals live below the poverty line with many living in non-metropolitan, rural areas such as Appalachia, where the high percentage of counties designated as health professional shortage areas (47 percent) and the high rate of poverty contribute to disparity outcomes. However, there is a higher proportion of racial and ethnic minorities in the United States represented among the medically underserved.

(10) While much research examines the question of racial and ethnic differences in health care, less is known about the magnitude and extent of differences in the quality of health care related to nonsocioeconomic factors. Only recently have scientists and quality improvement experts begun to address the issue of how best to measure, track, and improve quality of health care in diverse populations. Additional research in order to understand the

causes of disparities and develop effective approaches to eliminate these gaps in health care quality will be necessary.

(11) There is a need to ensure appropriate representation of racial and ethnic minorities, and other health disparity populations, in the health care professions and in the fields of biomedical, clinical, behavioral, and health services research.

(12) Preventable disparities in access to and quality of health care are unacceptable. Health care delivered in the United States should be care that is as safe, effective, patient-centered, timely, efficient and equitable as possible.

TITLE I—IMPROVED HEALTH CARE QUALITY AND EFFECTIVE DATA COLLECTION AND ANALYSIS

SEC. 101. STANDARDIZED MEASURES OF QUALITY HEALTH CARE.

(a) IN GENERAL.—

(1) COLLABORATION.—The Secretary of Health and Human Services, the Secretary of Defense, the Secretary of Veterans Affairs, the Director of the Indian Health Service, and the Director of the Office of Personnel Management (referred to in this section as the “Secretaries”) shall work collaboratively to establish uniform, standardized health care quality measures across all Federal Government health programs. Such measures shall be designed to assess quality improvement efforts with regard to the safety, timeliness, effectiveness, patient-centeredness, and efficiency of health care delivered across all federally supported health care delivery programs including those in which health care services are delivered to health disparity populations.

(2) DEVELOPMENT OF MEASURES.—Relying on earlier work by the Secretary of Health and Human Services or others (including work such as the Healthy People 2010 or the IOM Quality Chasm reports) and with an emphasis on health conditions disproportionately affecting health disparity populations and taking into account health literacy and primary language and cultural factors, the Secretaries shall develop standardized sets of quality measures for—

(A) 5 common health conditions by not later than January 1, 2006; and

(B) an additional 10 common health conditions by not later than January 1, 2007.

(3) PILOT TESTING.—Each federally administered health care program may conduct a pilot test of the quality measures developed under paragraph (2) that shall include a collection of patient-level data and a public release of comparative performance reports.

(b) PUBLIC REPORTING REQUIREMENTS.—The Secretaries shall work collaboratively to establish standardized public reporting requirements for clinicians, institutional providers, and health plans in each of the health programs described in subsection (a).

(c) FULL IMPLEMENTATION.—The Secretaries shall work collaboratively to prepare for the full implementation of all standardized sets of quality measures and reporting systems developed under subsections (a) and (b) by not later than January 1, 2009.

(d) PROGRESS REPORT.—The Secretary of Health and Human Services shall prepare an annual progress report that details the collaborative efforts carried out under subsection (a).

(e) COMPARATIVE QUALITY REPORTS.—Beginning on January 1, 2008, in order to make comparative quality information available to health care consumers, including members of health disparity populations, health professionals, public health officials, researchers, and other appropriate individuals and entities, the Secretaries shall provide for the pooling and analysis of quality measures collected under this section. Nothing in this

section shall be construed as modifying the privacy standards under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191).

(f) ONGOING EVALUATION OF USE.—The Secretary of Health and Human Services shall ensure the ongoing evaluation of the use of the health care quality measures established under this section.

(g) EXISTING ACTIVITIES.—Notwithstanding any other provision of law, the standardized measures and reporting activities described in this section shall replace, to the extent practicable and appropriate, any existing measurement and reporting activities currently utilized by federally supported health care delivery programs.

(h) EVALUATION.—

(1) INSTITUTE OF MEDICINE.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall request the Institute of Medicine to conduct an evaluation of the collaborative efforts of the Secretaries to establish uniform, standardized health care quality measures and reporting requirements for federally supported health care delivery programs as required under this section.

(B) REPORT.—Not later than 2 years after the date of enactment of this Act, the Institute of Medicine shall submit a report concerning the results of the evaluation under subparagraph (A) to the Secretary.

(2) REGULATIONS.—

(A) PROPOSED.—Not later than 18 months after the date on which the report is submitted under paragraph (1)(B), the Secretary shall publish proposed regulations regarding the uniform, standardized health care quality measures and reporting requirements described in this section.

(B) FINAL REGULATIONS.—Not later than 3 years after the date on which the report is submitted under paragraph (1)(B), the Secretary shall publish final regulations regarding the uniform, standardized health care quality measures and reporting requirements described in this section.

SEC. 102. DATA COLLECTION.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall—

(1) ensure that data collected under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) are accurate by race, ethnicity, and primary language and available for inclusion in the National Health Disparities Report;

(2) enforce State data collection and reporting by race, ethnicity, and primary language for enrollees in the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) and the State Children’s Health Insurance Program under title XXI of such Act (42 U.S.C. 1397aa et seq.) and ensure that such data are available for inclusion in the National Health Disparities Report;

(3) ensure that ongoing and any new program initiatives—

(A) collect and report data by race, ethnicity, and primary language and provide technical assistance to promote compliance;

(B) address technological difficulties;

(C) ensure privacy and confidentiality of data collected; and

(D) implement effective educational strategies;

(4) expand educational programs to inform insurers, providers, agencies and the public of the importance of data collection by race, ethnicity, and primary language to improving health care access and quality;

(5) raise awareness that these data are critical for achieving Healthy People 2010 goals and essential to the nondiscrimination requirements of title VI of the Civil Rights Act (42 U.S.C. 2000d et seq.); and

(6) support research on existing best practices for data collection.

(b) GRANTS FOR DATA COLLECTION BY HEALTH PLANS, HEALTH CENTERS, AND HOSPITALS.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, may support or conduct not to exceed 20 demonstration programs to enhance the collection, analysis, and reporting of the data required under this section.

(2) ELIGIBILITY.—To be eligible to receive a grant under this section an entity shall—

(A) be a health plan, federally qualified health center or health center network, or hospital; and

(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such as information as the Secretary may require.

(3) USE OF FUNDS.—A grantee shall use amounts received under a grant under this subsection to—

(A) collect, analyze, and report data by race, ethnicity, or other health disparity category for patients served by the grantee, including—

(i) in the case of a hospital, emergency room patients and patients served on an inpatient or outpatient basis;

(ii) in the case of a health plan, data for enrollees; and

(iii) in the case of a federally qualified health center or health center network, primary care, specialty care, and referrals;

(B) provide analyses of racial, ethnic and other disparities in health and health care, including specific disease conditions, diagnostic and therapeutic procedures, or outcomes;

(C) improve health data collection and analysis for additional population groups beyond the Office of Management and Budget categories if such groups can be aggregated into the minimum race and ethnicity categories;

(D) develop mechanisms for sharing collected data, subject to applicable privacy and confidentiality regulations;

(E) develop educational programs to inform health insurance issuers, health plans, health providers, health-related agencies, patients, enrollees, and the general public that data collection, analysis, and reporting by race, ethnicity, and preferred language are legal and essential for eliminating disparities in health and health care; and

(F) ensure the evaluation of activities conducted under this section.

TITLE II—EXPANDED ACCESS TO QUALITY HEALTH CARE

Subtitle A—Access, Awareness, and Outreach SEC. 201. ACCESS AND AWARENESS GRANTS.

(a) DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) may award contracts or competitive grants to eligible entities to support demonstration projects designed to improve the health and health care of health disparity populations through improved access to health care, health care navigation assistance, and health literacy education.

(b) ELIGIBLE ENTITY DEFINED.—In this section the term “eligible entity” means—

(1) a hospital;

(2) an academic institution;

(3) a State health agency;

(4) an Indian Health Service hospital or clinic, Indian tribal health facility, or urban Indian facility;

(5) a nonprofit organization including a faith-based organization or consortia, to the extent that a grant awarded to such an entity is consistent with the requirements of section 1955 of the Public Health Service Act

(42 U.S.C. 300x-65) relating to grant award to nongovernmental entities;

(6) a primary care practice-based research network as defined by the Director of the Agency for Healthcare Research and Quality;

(7) a Federally qualified health center (as defined in section 1905(1)(2)(B) of the Social Security Act (42 U.S.C. 1396d(1)(2)(B))); or

(9) any other entity determined to be appropriate by the Secretary.

(c) APPLICATION.—An eligible entity seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including assurances that the eligible entity will—

(1) target patient populations that are members of racial and ethnic minority groups or health disparity populations through specific outreach activities;

(2) coordinate with appropriate community organizations and include appropriate community participation in planning and implementation of activities;

(3) coordinate culturally competent and appropriate care;

(4) include a plan to ensure that the entity will become self-sustaining when funding under the grant terminates; and

(5) include quality and outcomes performance measures to evaluate the effectiveness of activities funded under this section to ensure that the activities are meeting their goals, and disseminate findings from such evaluations.

(d) PRIORITIES.—In awarding contracts and grants under this section, the Secretary shall give priority to applicants that intend to use amounts received under this section to carry out all programs specified under subsection (e).

(e) USE OF FUNDS.—An eligible entity shall use amounts received under this section to carry out programs that involve at least 2 of the following:

(1) Providing resources and guidance to individuals regarding sources of health insurance coverage, as well as information on how to obtain health coverage in the private insurance market, through Federal and State programs, and through other available coverage options.

(2) Providing patient navigator services to help individuals better utilize their health coverage by working through the health system to obtain appropriate quality care, including programs in which—

(A) trained individuals (such as representatives from the community, nurses, social workers, physicians, or patient advocates) are assigned to act as contacts—

(i) within the community; or

(ii) within the health care system, to facilitate access to health care services;

(B) partnerships are created with community organizations (which may include hospitals, federally qualified health centers or health center networks, faith-based organizations, primary care providers, home care, nonprofit organizations, health plans, or other health providers determined appropriate by the Secretary) to help facilitate access or to improve the quality of care;

(C) activities are conducted to coordinate care and preventive services and referrals;

(D) services are provided for translation, interpretation, and other such linguistic services for patients with limited English proficiency; or

(E) an entity receiving a grant under this section negotiates on behalf of the patient with relevant entities, or provides referrals and guides the patient through the mediation or arbitration process, to resolve issues that impede access to care.

(3) Promoting broad health awareness and prevention efforts, including patient education and health literacy programs to help

increase a patient's knowledge of how to best participate in such patient's and such patient's children's treatment decisions.

(4) Enhancing preventive services and coordinated, multidisciplinary disease management of chronic conditions, such as diabetes mellitus, HIV/AIDS, asthma, cancer, cardiovascular disease, and obesity.

(f) REPORT.—Not later than 3 years after the date an entity receives a grant under this section and annually thereafter, the entity shall provide to the Secretary a report containing the results of any evaluation conducted pursuant to subsection (c)(5).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2005 through 2009.

SEC. 202. INNOVATIVE OUTREACH PROGRAMS.

(a) GRANTS TO PROMOTE INNOVATIVE OUTREACH AND ENROLLMENT UNDER MEDICAID AND SCHIP.—Section 2104(e) of the Social Security Act (42 U.S.C. 1397dd(e)) is amended—

(1) by striking “Amounts allotted” and inserting the following:

“(1) IN GENERAL.—Subject to paragraph (2), amounts allotted”; and

(2) by adding at the end the following:

“(2) GRANTS TO PROMOTE INNOVATIVE OUTREACH AND ENROLLMENT EFFORTS.—

“(A) IN GENERAL.—Prior to September 30 of each fiscal year, beginning with fiscal year 2004, the Secretary shall reserve from any unexpended allotments made to States under subsection (b) or (c) (including any portion of such allotments that were redistributed under subsection (f) or (g)) for a fiscal year that would revert to the Treasury on October 1 of the succeeding fiscal year but for the application of this paragraph, the lesser of \$50,000,000 or the total amount of such unexpended allotments for purposes of awarding grants under this paragraph for such succeeding fiscal year to States or national, local, and community-based public or nonprofit private organizations to conduct innovative outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this title and title XIX.

“(B) PRIORITY FOR GRANTS IN CERTAIN AREAS.—In making grants under subparagraph (A)(ii), the Secretary shall give priority to grant applicants that propose to target geographic areas—

“(i) with high rates of eligible but unenrolled children, including such children who reside in rural areas;

“(ii) with high rates of families for whom English is not their primary language; or

“(iii) with high rates of racial and ethnic minorities and health disparity populations.

“(C) APPLICATION.—An organization that desires to receive a grant under this paragraph shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include quality and outcomes performance measures to evaluate the effectiveness of activities funded by a grant under this paragraph to ensure that the activities are meeting their goals, and disseminate findings from such evaluations.”.

(b) DEMONSTRATIONS TO REDUCE HEALTH DISPARITIES.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall, through contracts or grants to public and private entities, support demonstration programs for the purpose of conducting interventions among health disparity populations to—

(A) target, identify, and reduce or prevent behavioral risk factors that contribute to health disparities;

(B) promote translation, interpretation, and other such linguistic services for pa-

tients with limited English speaking proficiency;

(C) promote preventive services; or

(D) enhance coordinated, multidisciplinary disease management of chronic conditions, such as diabetes mellitus, HIV/AIDS, asthma, cancer, and obesity.

(2) APPLICATION.—An entity desiring a contract or grant under paragraph (1) shall submit an application to the Secretary of Health and Human Services in such form and manner, and containing such information, as the Secretary may require.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each of fiscal years 2005 through 2009.

Subtitle B—Refundable Health Insurance Credit

SEC. 211. REFUNDABLE HEALTH INSURANCE COSTS CREDIT.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable personal credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

“SEC. 36. HEALTH INSURANCE COSTS FOR UNINSURED INDIVIDUALS.

“(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the amount paid by the taxpayer during such taxable year for qualified health insurance for the taxpayer and the taxpayer's spouse and dependents.

“(b) LIMITATIONS.—

“(1) IN GENERAL.—The amount allowed as a credit under subsection (a) to the taxpayer for the taxable year shall not exceed the lesser of—

“(A) the sum of the monthly limitations for coverage months during such taxable year for the individuals referred to in subsection (a) for whom the taxpayer paid during the taxable year any amount for coverage under qualified health insurance, or

“(B) 90 percent of the sum of the amounts paid by the taxpayer for qualified health insurance for each such individual for coverage months of the individual during the taxable year.

“(2) MONTHLY LIMITATION.—

“(A) IN GENERAL.—The monthly limitation for an individual for each coverage month of such individual during the taxable year is the amount equal to 1/2 of—

“(i) \$1,000 if such individual is the taxpayer,

“(ii) \$1,000 if—

“(I) such individual is the spouse of the taxpayer,

“(II) the taxpayer and such spouse are married as of the first day of such month, and

“(III) the taxpayer files a joint return for the taxable year, and

“(iii) \$500 if such individual is an individual for whom a deduction under section 151(c) is allowable to the taxpayer for such taxable year.

“(B) LIMITATION TO 2 DEPENDENTS.—Not more than 2 individuals may be taken into account by the taxpayer under subparagraph (A)(iii).

“(C) SPECIAL RULE FOR MARRIED INDIVIDUALS.—In the case of a taxpayer—

“(i) who is married (within the meaning of section 7703) as of the close of the taxable year but does not file a joint return for such year, and

“(ii) who does not live apart from such taxpayer's spouse at all times during the taxable year,

the dollar limitation imposed under subparagraph (A)(iii) shall be divided equally between the taxpayer and the taxpayer's spouse unless they agree on a different division.

“(3) INCOME PHASEOUT OF CREDIT PERCENTAGE.—

“(A) PHASEOUT FOR SINGLE COVERAGE.—If a taxpayer with self-only coverage has modified adjusted gross income in excess of \$15,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced (but not below zero) by—

“(i) 2 percentage points for each \$250 of such income in excess of \$15,000 but not in excess of \$20,000, and

“(ii) 1.25 percentage points for each \$250 of such income in excess of \$20,000.

“(B) AMOUNT OF REDUCTION FOR FAMILY COVERAGE.—If a taxpayer with family coverage has modified adjusted gross income in excess of \$25,000 for a taxable year, the 90 percent under paragraph (1)(B) shall be reduced (but not below zero) by—

“(i) in the case of family coverage covering only 1 adult, 1.5 percentage points for each \$250 of such excess, and

“(ii) in the case of family coverage covering more than 1 adult, 0.643 percentage points for each \$250 of such excess.

Any percentage resulting from a reduction under clause (ii) shall be rounded to the nearest one-tenth of a percent.

“(C) MODIFIED ADJUSTED GROSS INCOME.—The term ‘modified adjusted gross income’ means adjusted gross income determined—

“(i) without regard to this section and sections 911, 931, and 933, and

“(ii) after application of sections 86, 135, 137, 219, 221, and 469.

“(c) COVERAGE MONTH.—For purposes of this section—

“(1) IN GENERAL.—The term ‘coverage month’ means, with respect to an individual, any month if—

“(A) as of the first day of such month such individual is covered by qualified health insurance, and

“(B) the premium for coverage under such insurance for such month is paid by the taxpayer.

“(2) EMPLOYER-SUBSIDIZED COVERAGE.—

“(A) IN GENERAL.—The term ‘coverage month’ shall not include any month for which such individual is eligible to participate in any subsidized health plan (within the meaning of section 162(l)(2)) maintained by any employer of the taxpayer or of the spouse of the taxpayer. A subsidized health plan shall not include a plan substantially all of the coverage of which is of excepted benefits described in section 9832(c).

“(B) PREMIUMS TO NONSUBSIDIZED PLANS.—If an employer of the taxpayer or the spouse of the taxpayer maintains a health plan which is not a subsidized health plan (as so defined) and which constitutes qualified health insurance, employee contributions to the plan shall be treated as amounts paid for qualified health insurance.

“(3) CAFETERIA PLAN AND FLEXIBLE SPENDING ACCOUNT BENEFICIARIES.—The term ‘coverage month’ shall not include any month during a taxable year if any amount is not includible in the gross income of the taxpayer for such year under section 106 with respect to—

“(A) a benefit chosen under a cafeteria plan (as defined in section 125(d)), or

“(B) a benefit provided under a flexible spending or similar arrangement.

“(4) MEDICARE, MEDICAID, AND SCHIP.—The term ‘coverage month’ shall not include any month with respect to an individual if, as of the first day of such month, such individual—

“(A) is entitled to any benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

“(B) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928 of such Act).

“(5) CERTAIN OTHER COVERAGE.—The term ‘coverage month’ shall not include any month during a taxable year with respect to an individual if, at any time during such year, any benefit is provided to such individual under—

“(A) chapter 89 of title 5, United States Code,

“(B) chapter 55 of title 10, United States Code,

“(C) chapter 17 of title 38, United States Code, or

“(D) any medical care program under the Indian Health Care Improvement Act.

“(6) PRISONERS.—The term ‘coverage month’ shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

“(7) INSUFFICIENT PRESENCE IN UNITED STATES.—The term ‘coverage month’ shall not include any month during a taxable year with respect to an individual if such individual is present in the United States on fewer than 183 days during such year (determined in accordance with section 7701(b)(7)).

“(d) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified health insurance’ means health insurance coverage (as defined in section 9832(b)(1)) which—

“(A) is coverage described in paragraph (2), and

“(B) meets the requirements of paragraph (3).

“(2) ELIGIBLE COVERAGE.—Coverage described in this paragraph is the following:

“(A) Coverage under individual health insurance.

“(B) Coverage under a group health plan (as defined in section 5000 without regard to subsection (d)).

“(C) Coverage through a private sector health care coverage purchasing pool.

“(D) Coverage under a State high risk pool described in subparagraph (C) of section 35(e)(1).

“(E) Continuation coverage described in subparagraph (A) or (B) of section 35(a)(1).

“(F) Coverage under an eligible State buyin program.

“(3) REQUIREMENTS.—The requirements of this paragraph are as follows:

“(A) COST LIMITS.—Under the coverage, the sum of the annual deductible and the other annual out-of-pocket expenses required to be paid (other than premiums) for covered benefits does not exceed—

“(i) \$5,000 for self-only coverage, and

“(ii) twice the dollar amount in clause (i) for family coverage, or

“(B) MAXIMUM BENEFITS.—Under the coverage, the annual and lifetime maximum benefits are not less than \$700,000.

“(4) ELIGIBLE STATE BUYIN PROGRAM.—For purposes of paragraph (2)(F)—

“(A) IN GENERAL.—The term ‘eligible State buyin program’ means a State program under which an individual not otherwise eligible for assistance under the State medicaid program under title XIX of the Social Security Act or the State children's health insurance program under title XXI of such Act is able to buy health insurance coverage through a purchasing arrangement entered into between the State and a private sector health care purchasing group or health plan for purposes of providing health insurance coverage to recipients of assistance under such program or for purposes of providing such coverage to State employees.

“(B) REQUIREMENTS.—Subparagraph (A) shall only apply to a State program if—

“(i) the program uses private sector health care purchasing groups or health plans, and

“(ii) the State maintains separate risk pools for participants under the State program.

“(e) ARCHER MSA CONTRIBUTIONS; HSA CONTRIBUTIONS.—If a deduction would be allowed under section 220 to the taxpayer for a payment for the taxable year to the Archer MSA of an individual or under section 223 to the taxpayer for a payment for the taxable year to the Health Savings Account of such individual, subsection (a) shall not apply to the taxpayer for any month during such taxable year for which the taxpayer, spouse, or dependent is an eligible individual for purposes of either such section.

“(f) INFLATION ADJUSTMENT.—

“(1) IN GENERAL.—In the case of any taxable year beginning after 2004, each dollar amount referred to in subsections (b)(2)(A) and (d)(3) shall be increased by an amount equal to—

“(A) such dollar amount, multiplied by

“(B) the cost-of-living adjustment determined under section 213(d)(10)(B)(ii) for the calendar year in which the taxable year begins, except that ‘2003’ shall be substituted for ‘1996’ in subclause (II) thereof.

“(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of \$10, such amount shall be rounded to the next lowest multiple of \$10.

“(g) SPECIAL RULES.—

“(1) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amount which would (but for this paragraph) be taken into account by the taxpayer under section 213 for the taxable year shall be reduced by the credit (if any) allowed by this section to the taxpayer for such year.

“(2) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—In the case of a taxpayer who is eligible to deduct any amount under section 162(l) for the taxable year, this section shall apply only if the taxpayer elects not to claim any amount as a deduction under such section for such year.

“(3) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

“(4) COORDINATION WITH ADVANCE PAYMENT.—Rules similar to the rules of section 35(g)(1) shall apply to any credit to which this section applies.

“(5) COORDINATION WITH SECTION 35.—If a taxpayer is eligible for the credit allowed under this section and section 35 for any taxable year, the taxpayer shall elect which credit is to be allowed.

“(h) EXPENSES MUST BE SUBSTANTIATED.—A payment for insurance to which subsection (a) applies may be taken into account under this section only if the taxpayer substantiates such payment in such form as the Secretary may prescribe.

“(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.”

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050T the following:

“SEC. 6050U. RETURNS RELATING TO PAYMENTS FOR QUALIFIED HEALTH INSURANCE.

“(a) IN GENERAL.—Any person who, in connection with a trade or business conducted

by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under creditable health insurance, shall make the return described in subsection (b) (at such time as the Secretary may by regulations prescribe) with respect to each individual from whom such payments were received.

“(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

“(1) is in such form as the Secretary may prescribe, and

“(2) contains—

“(A) the name, address, and TIN of the individual from whom payments described in subsection (a) were received,

“(B) the name, address, and TIN of each individual who was provided by such person with coverage under creditable health insurance by reason of such payments and the period of such coverage,

“(C) the aggregate amount of payments described in subsection (a), and

“(D) such other information as the Secretary may reasonably prescribe.

“(c) CREDITABLE HEALTH INSURANCE.—For purposes of this section, the term ‘creditable health insurance’ means qualified health insurance (as defined in section 36(d)).

“(d) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required under subsection (b)(2)(A) to be set forth in such return a written statement showing—

“(1) the name and address of the person required to make such return and the phone number of the information contact for such person,

“(2) the aggregate amount of payments described in subsection (a) received by the person required to make such return from the individual to whom the statement is required to be furnished, and

“(3) the information required under subsection (b)(2)(B) with respect to such payments.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

“(e) RETURNS WHICH WOULD BE REQUIRED TO BE MADE BY 2 OR MORE PERSONS.—Except to the extent provided in regulations prescribed by the Secretary, in the case of any amount received by any person on behalf of another person, only the person first receiving such amount shall be required to make the return under subsection (a).”

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xii) through (xviii) as clauses (xiii) through (xix), respectively, and by inserting after clause (xi) the following:

“(xii) section 6050U (relating to returns relating to payments for qualified health insurance).”

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking “or” at the end of subparagraph (AA), by striking the period at the end of the subparagraph (BB) and inserting “, or”, and by adding at the end the following:

“(CC) section 6050U(d) (relating to returns relating to payments for qualified health insurance).”

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050T the following:

“Sec. 6050U. Returns relating to payments for qualified health insurance.”

(c) CRIMINAL PENALTY FOR FRAUD.—Subchapter B of chapter 75 of the Internal Revenue Code of 1986 (relating to other offenses) is amended by adding at the end the following:

“SEC. 7276. PENALTIES FOR OFFENSES RELATING TO HEALTH INSURANCE TAX CREDIT.

“Any person who knowingly misuses Department of the Treasury names, symbols, titles, or initials to convey the false impression of association with, or approval or endorsement by, the Department of the Treasury of any insurance products or group health coverage in connection with the credit for health insurance costs under section 36 shall on conviction thereof be fined not more than \$10,000, or imprisoned not more than 1 year, or both.”

(d) CONFORMING AMENDMENTS.—

(1) Section 162(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(6) ELECTION TO HAVE SUBSECTION APPLY.—No deduction shall be allowed under paragraph (1) for a taxable year unless the taxpayer elects to have this subsection apply for such year.”

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period “, or from section 36 of such Code”.

(3) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following:

“Sec. 36. Health insurance costs for uninsured individuals.

“Sec. 37. Overpayments of tax.”

(4) The table of sections for subchapter B of chapter 75 of such Code is amended by adding at the end the following:

“Sec. 7276. Penalties for offenses relating to health insurance tax credit.”

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2003, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

(2) PENALTIES.—The amendments made by subsections (c) and (d)(4) shall take effect on the date of the enactment of this Act.

SEC. 212. ADVANCE PAYMENT OF CREDIT TO ISSUERS OF QUALIFIED HEALTH INSURANCE.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following:

“SEC. 7529. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

“(a) GENERAL RULE.—Not later than January 1, 2005, the Secretary shall establish a program for making payments on behalf of certified individuals to providers of qualified health insurance (as defined in section 36(d)) for such individuals.

“(b) PROGRAM OPTIONS.—The program under subsection (a) may—

“(1) provide that payments may be made on the basis of modified adjusted gross income of certified individuals for the preceding taxable year, and

“(2) provide that, in lieu of payments to providers, the following amounts may be offset:

“(A) Amounts required to be deposited by the provider as estimated income tax under section 6654 or 6655.

“(B) Amounts required to be deducted and withheld under section 3401 (relating to wage withholding).

“(C) Taxes imposed under section 3111(a) or 50 percent of taxes imposed under section 1401(a) (relating to FICA employer taxes).

“(D) Amounts required to be deducted under section 3102 with respect to taxes imposed under section 3101(a) or 50 percent of taxes imposed under section 1401(a) (relating to FICA employee taxes).

“(c) CERTIFIED INDIVIDUAL.—For purposes of this section, the term ‘certified individual’ means any individual for whom a qualified health insurance credit eligibility certificate is in effect.

“(d) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, a qualified health insurance credit eligibility certificate is a statement furnished by an individual to a provider of qualified health insurance which—

“(1) certifies that the individual will be eligible to receive the credit provided by section 36 for the taxable year,

“(2) estimates the amount of such credit for such taxable year, and

“(3) provides such other information as the Secretary may require for purposes of this section.”

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“Sec. 7529. Advance payment of health insurance credit for purchasers of qualified health insurance.”

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2005, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

TITLE III—STRONG NATIONAL LEADERSHIP, COOPERATION, AND COORDINATION

SEC. 301. OFFICE OF MINORITY HEALTH AND HEALTH DISPARITIES.

(a) IN GENERAL.—Section 1707 of the Public Health Service Act (42 U.S.C. 300u-6) is amended—

(1) by striking the section heading and inserting the following:

“OFFICE OF MINORITY HEALTH AND HEALTH DISPARITIES”; and

(2) in subsection (a)—

(A) by striking “Office of Minority Health” each place that such appears and inserting “Office of Minority Health and Health Disparities”; and

(B) by striking “for Minority Health” and inserting “for Minority Health and Health Disparities”.

(b) DUTIES.—Section 1707(b) of the Public Health Service Act (42 U.S.C. 300u-6(b)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting “and health disparity populations” after “groups” and

(B) by striking “for Minority Health” and inserting “for Minority Health and Health Disparities”;

(2) in paragraph (1)—

(A) by striking “Establish” and all that follows through “coordinate” and inserting “Coordinate”; and

(B) by striking “such individuals” and inserting “health disparities”;

(4) in paragraph (1)

(3) in paragraph (5), by inserting “or health disparity populations” after “minority groups”;

(4) in paragraph (6), by inserting “or health disparity population” after “minority group”;

(5) by striking paragraphs (7) and (9);

(6) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (8), and (10) as paragraphs (3), (4), (6), (7), (9), (10), (11), and (12), respectively;

(7) by inserting before paragraph (3) (as so redesignated) the following:

“(1) Establish specific short- and long-term goals and objectives for analyzing the causes of health disparities and addressing them, with a particular focus on the areas of health promotion, disease prevention, chronic care and research.

“(2) Work with agencies within the Department of Health and Human Services and with the Surgeon General to establish a strategic plan to analyze and address the causes of health disparities. The plan shall include recommendations to improve the collection, analysis, and reporting of data at the Federal, State, territorial, Tribal, and local levels, including how to—

“(A) implement data collection while minimizing the cost and administrative burdens of data collection and reporting;

“(B) expand awareness of the importance of such data collection to improving health care quality; and

“(C) provide researchers with greater access to racial, ethnic, and other health disparity data.”;

(8) by inserting after paragraph (4) (as so redesignated), the following:

“(5) Increase awareness of disparities in health care among health care providers, health plans, and the public.”;

(9) in paragraph (6) (as so redesignated)—

(A) by striking “Support” and inserting “In cooperation with the appropriate agencies, support”;

(B) by inserting before the period the following: “for—

“(A) expanding health care access;

“(B) improving health care quality; and

“(C) increasing health care educational opportunity.”;

(10) by inserting after paragraph (7) (as so redesignated), the following:

“(8) Consistent with section 102 of the Closing the Health Care Gap Act of 2004, coordinate the classification and collection of health care data to allow for the ongoing analysis of the causes of disparities and monitoring of progress toward the elimination of disparities.”; and

(11) by inserting after paragraph (12), as so redesignated, the following:

“(13) Work with Federal agencies and departments outside of the Department of Health and Human Services to maximize program resources available to understand why disparities exist, and effective ways to reduce and eliminate disparities.

“(14) Support a center for linguistic and cultural competence to carry out the following:

“(A) With respect to individuals who lack proficiency in speaking the English language, enter into contracts with public and nonprofit private providers of primary health services for the purpose of increasing the access of such individuals to such services by developing and carrying out programs to provide bilingual or interpretive services.

“(B) Carry out programs to improve access to health care services for individuals with limited proficiency in speaking the English language. Activities under this subparagraph shall include developing and evaluating model projects.”.

(c) **ADVISORY COMMITTEE.**—Section 1707(c) of the Public Health Service Act (42 U.S.C. 300u-6(c)) is amended—

(1) in paragraph (1), by inserting “and Health Disparities” after “Minority Health”;

(2) in paragraph (2), by inserting “and health disparity populations” after “minority group”;

(3) in paragraph (4)(B)—

(A) by inserting “and health disparities” after “minority health”; and

(B) by inserting “and health disparity populations” after “minority groups”.

(d) **DUTY REQUIREMENTS.**—Section 1707(d) of the Public Health Service Act (42 U.S.C. 300u-6(d)) is amended—

(1) in paragraph (1)(A), by striking “(b)(9)” and inserting “(b)(14);

(2) in paragraph (1)(B), by striking “(b)(10)” and inserting “(b)(13); and

(3) in paragraph (3), insert “take into account the unique cultural or linguistic issues facing such populations and” after “subsection (b)”.

(e) **REPORTS.**—Section 1707(f) of the Public Health Service Act (42 U.S.C. 300u-6(f)) is amended—

(1) in paragraph (1)—

(A) by striking the subsection heading and inserting “REPORT ON ACTIVITIES.—”;

(B) by striking “1999” and inserting “2006”;

(C) by striking “Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate” and inserting “appropriate committees of Congress”; and

(D) by inserting “and health disparity populations” after “racial and ethnic minority groups”;

(2) in paragraph (2)—

(A) by striking “1999” and inserting “2005”;

(B) by inserting “and health disparity” after “minority health”;

(3) by redesignating paragraph (1) and (2) as paragraphs (2) and (3), respectively; and

(4) by inserting after the subsection heading, the following:

“(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of the Closing the Health Care Gap Act of 2004, the Secretary shall submit to the appropriate committees of Congress, a report on the plan developed under subsection (b)(2).”.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—Section 1707(h) of the Public Health Service Act (42 U.S.C. 300u-6(h)) is amended—

(1) by striking “FUNDING.—” and all that follows through the paragraph designation in paragraph (1); and

(2) by striking “\$30,000,000” and all that follows through the period and inserting “\$50,000,000 for fiscal year 2005, such sums as may be necessary for each of fiscal years 2006 through 2009.”.

TITLE IV—PROFESSIONAL EDUCATION, AWARENESS, AND TRAINING

SEC. 401. WORKFORCE DIVERSITY AND TRAINING.

(a) **PURPOSE.**—Part B of title VII of the Public Health Service Act (42 U.S.C. 293 et seq.) is amended by inserting before section 736 the following:

“SEC. 736A. PURPOSE OF PROGRAM.

“It is the purpose of this part to improve health care quality and access in medically underserved communities, to improve the cultural competence of health care providers by increasing minority representation in the health professions, and to strengthen the research and education programs of designated health professions schools that disproportionately serve health disparity populations.”.

(b) **CENTERS OF EXCELLENCE.**—Section 736 of the Public Health Service Act (42 U.S.C. 293) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) **IN GENERAL.**—The Secretary shall make grants to, and enter into contracts with, public and nonprofit private health or educational entities, including designated health professions schools described in subsection (c), for the purpose of assisting the schools in supporting programs of excellence

in health professions education for racial or ethnic minority or health disparity populations.”;

(2) in subsection (b)—

(A) in paragraph (2), by striking “under-represented minority” and inserting “racial or ethnic minority”;

(B) in paragraph (3), by striking “under-represented minority” and inserting “racial or ethnic minority”;

(C) in paragraph (4), by striking “minority health” and inserting “health disparity”;

(D) in paragraph (5), by striking “under-represented minority groups” and inserting “racial or ethnic minorities and health disparity populations”;

(E) in paragraph (6)—

(i) in the matter preceding subparagraph (A), by striking “under-represented minority” and inserting “individuals from racial or ethnic minorities or health disparity populations”;

(ii) by striking “and” at the end;

(F) in paragraph (7), by striking the period and inserting “; and”;

(G) by adding at the end the following:

“(8) to conduct accountability and other reporting activities, as required by the Secretary.”;

(3) in subsection (c)—

(A) in paragraph (1)(B)—

(i) in clause (i), by striking “under-represented minority” and inserting “individuals from racial or ethnic minorities or health disparity populations”;

(ii) in clause (ii), by striking “under-represented minority” and inserting “such”;

(iii) in clause (iii)—

(I) by striking “under-represented minority individuals” the first place that such appears and inserting “such students”;

(II) by striking “such individuals” and inserting “such students”; and

(III) by striking “under-represented minority” the second place that such appears and inserting “such”; and

(iv) in clause (iv), by striking “under-represented minority individuals” and inserting “individuals from racial or ethnic minorities or health disparity populations”;

(B) in paragraph (2)(B)—

(i) in clause (i), by striking “under-represented” and inserting “racial or”; and

(C) in paragraph (5)(B)—

(i) by striking “under-represented” and inserting “racial or”; and

(ii) by inserting “or a health disparity population” after “minorities”;

(4) in subsection (d)(1), by striking “Under-Represented Minority Health” and inserting “Minority Health and Health Disparity”;

(5) in subsection (h)—

(A) in paragraph (1), by striking “\$26,000,000” and all that follows and inserting “\$50,000,000 for fiscal year 2005, and such sums as may be necessary for each of fiscal years 2006 through 2009”; and

(B) in paragraph (2)—

(i) in subparagraph (C)—

(I) in the matter preceding clause (i), by striking “are \$30,000,000 or more” and inserting “exceed \$30,000,000 but are less than \$40,000,000”; and

(II) in clause (iv), by striking “any remaining funds” and inserting “any remaining excess amount”; and

(ii) by adding at the end the following:

“(D) **FUNDING IN EXCESS OF \$40,000,000.**—If amounts appropriated under paragraph (1) for a fiscal year are \$40,000,000 or more, the Secretary shall make available—

“(i) not less than \$16,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(2)(A);

“(ii) not less than \$16,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in

paragraph (3) or (4) of subsection (c) (including meeting conditions pursuant to subsection (e));

“(iii) not less than \$8,000,000 for grants under subsection (a) to health professions schools that meet the conditions described in subsection (c)(5); and

“(iv) after grants are made with funds under clauses (i) through (iii), any remaining funds for grants under subsection (a) to health professions schools that meet the conditions described in paragraph (2)(A), (3), (4), or (5) of subsection (c).”; and

(6) by adding at the end the following:

“(i) EVALUATION.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Closing the Health Care Gap Act of 2004, the Secretary shall request that the Institute of Medicine evaluate the effectiveness of the programs under this section in meeting the purpose of this part. The Institute of Medicine shall submit a report on the evaluation to the Secretary.

“(2) WORKING GROUP.—Upon submission of the report under paragraph (1), the Secretary shall convene a working group composed of stakeholders, including designated health professions schools described in subsection (c), to define quality performance measures and reporting requirements of grant recipients that shall be tied to the purpose of this part.

“(3) REGULATIONS.—Not later than 18 months after the date the Institute of Medicine submits the report under paragraph (1), the Secretary shall publish proposed regulations regarding the quality performance measures and reporting requirements described in paragraph (2). Not later than 3 years after the date the Institute of Medicine submits the report under paragraph (1), the Secretary shall publish final regulations regarding the quality performance measures and reporting requirements described in paragraph (2).”.

(c) SCHOLARSHIPS FOR DISADVANTAGED STUDENTS.—Section 737 of the Public Health Service Act (42 U.S.C. 293a) is amended—

(1) in subsection (c), by striking “underrepresented minority” and inserting “minority and health disparity”; and

(2) in subsection (d)(1)(B), by inserting “or health disparity” after “minority”.

(d) LOAN REPAYMENTS AND FELLOWSHIPS REGARDING FACULTY POSITIONS.—Section 738(b) of the Public Health Service Act (42 U.S.C. 293b(b)) is amended—

(1) in paragraph (1), by striking “underrepresented”;

(2) in paragraph (3)(A), by striking “underrepresented minority individuals” and inserting “individuals from racial or ethnic minorities or health disparity populations”; and

(3) by striking paragraph (5).

(e) NATIONAL HEALTH SERVICE CORPS.—

(1) ASSIGNMENT.—Section 333(a)(3) of the Public Health Service Act (42 U.S.C. 254f(a)(3)) is amended—

(A) in the second sentence—

(i) by striking “shall give preference” and inserting the following: “shall—

“(A) give preference”; and

(ii) by striking the period and inserting “; and”;

(B) by adding at the end the following:

“(B) give preference to applications from entities described in subparagraph (A) that serve individuals a majority of whom are members of a racial or ethnic minority or other health disparity population with annual incomes at or below twice those set forth in the most recent poverty guidelines issued by the Secretary pursuant to section 402(2) of the Community Services Block Grant Act.”.

(2) PRIORITIES.—Section 333A(a) of the Public Health Service Act (42 U.S.C. 254f-1(a)) is amended—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(B) by inserting before paragraph (2) (as so redesignated), the following:

“(1) give preference to applications as described in section 333(a)(3).”.

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 740 of the Public Health Service Act (42 U.S.C. 293d) is amended—

(1) in subsection (a), by striking “2002” and inserting “2009”;

(2) in subsection (b), by striking “2002” and inserting “2009”;

(3) in subsection (c), by striking “2002” and inserting “2009”; and

(4) by striking subsection (d).

(f) GRANTS FOR HEALTH PROFESSIONS EDUCATION.—Section 741 of the Public Health Service Act (42 U.S.C. 293e) is amended—

(1) in subsection (a)(2), in the first sentence by striking “Unless” and all that follows through “the Secretary” and inserting “The Secretary”; and

(2) in subsection (b), by striking “\$3,500,000” and all that follows through the period and inserting “such sums as may be necessary for each of fiscal years 2005 through 2009.”.

(g) HEALTH CAREERS OPPORTUNITY PROGRAM.—Subpart 2 of part E of title VII of the Public Health Service Act (42 U.S.C. 295 et seq.) is amended—

(1) in section 770 by inserting “(other than section 771)” after “this subpart”; and

(2) by redesignating section 770 as section 771;

(3) by inserting after section 769 the following:

“**SEC. 770. HEALTH CAREERS OPPORTUNITY PROGRAM.**

“(a) IN GENERAL.—The Secretary may make grants and enter into cooperative agreements and contracts with eligible entities for any of the following purposes:

“(1) Identifying and recruiting students who—

“(A) are from disadvantaged backgrounds or health disparity populations; and

“(B) are interested in a career in the health professions.

“(2) Providing counseling or other services designed to assist such individuals in entering a health professions school and successfully completing their education at such a school.

“(3) Providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education designed to assist the individuals in successfully completing such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education.

“(b) RECEIPT OF AWARD.—

“(1) ELIGIBLE ENTITIES; REQUIREMENT OF CONSORTIUM.—The Secretary may make an award under subsection (a) only if an eligible entity meets the following conditions:

“(A) The eligible entity is a public or private entity, and such entity has established a consortium consisting of private community-based organizations and health professions schools.

“(B) The health professions schools in the consortium are schools of medicine or osteopathic medicine, public health, nursing, dentistry, optometry, pharmacy, allied health, or podiatric medicine, or graduate programs in mental health practice (including programs in clinical psychology).

“(C)(i) Except as provided in clause (ii), the membership of the consortium includes not less than 1 nonprofit private community-

based organization and not less than 3 health professions schools.

“(ii) In the case of an eligible entity whose exclusive activity under the award will be carrying out 1 or more programs described in subsection (a)(5), the membership of the consortium includes not less than 1 nonprofit private community-based organization and not less than 1 health professions school.

“(D) The members of the consortium have entered into an agreement specifying—

“(i) that each of the members will comply with the conditions upon which the award is made; and

“(ii) whether and to what extent the award will be allocated among the members.

“(2) REQUIREMENT OF COMPETITIVE AWARDS.—Awards under subsection (a) shall be made on a competitive basis.

“(c) REQUIREMENTS.—The Secretary may make an award under subsection (a) only if the Secretary determines that, in the case of activities carried out under the award that prove to be effective toward achieving the purposes of the activities—

“(1) the members of the consortium involved have or will have the financial capacity to continue the activities, regardless of whether financial assistance under subsection (a) continues to be available; and

“(2) the members of the consortium demonstrate to the satisfaction of the Secretary a commitment to continue such activities, regardless of whether such assistance continues to be available.

“(d) OBJECTIVES UNDER AWARDS.—Before making a first award to an eligible entity under subsection (a), the Secretary shall establish objectives regarding the activities to be carried out under the award, which objectives are applicable until the next fiscal year for which such award is made after a competitive process of review. In making an award after such a review, the Secretary shall establish additional objectives for the applicant.

“(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated, such sums as may be necessary for each of fiscal years 2005 through 2009.”.

SEC. 402. HIGHER EDUCATION TECHNICAL AMENDMENTS.

Section 326(c) of the Higher Education Act of 1965 (20 U.S.C. 1063b(c)) is amended—

(1) in paragraph (2), by inserting before the semicolon, the following: “, and for the acquisition and development of real property that is adjacent to the campus to improve the academic environment”; and

(2) in paragraph (6), by striking “and” at the end;

(3) in paragraph (7), by striking the period and inserting a semicolon; and

(4) by adding at the end the following:

“(8) Support of faculty exchanges, development, and fellowship to enable attainment of advanced degrees in their field of instruction; and

“(9) Tutoring, counseling, and student service programs designed to improve academic success.”.

SEC. 403. MODEL CULTURAL COMPETENCY CURRICULUM DEVELOPMENT.

(a) CURRICULA DEVELOPMENT AND MODEL CURRICULA.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) may award grants to eligible entities for curricula development for the training of health care providers and health professions students regarding cultural competency, and for demonstration projects to test new innovations for cultural competence education model curricula for and identify additional barriers to culturally appropriate care.

(b) APPLICATION.—Each eligible entity desiring a grant under subsection (a) shall submit an application to the Secretary at such

time, in such manner, and containing such information as the Secretary may require.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2005 through 2009.

SEC. 404. INTERNET CULTURAL COMPETENCY CLEARINGHOUSE.

(a) **DEVELOPMENT.**—The Director of the Office of Minority Health and Health Disparities, with assistance from the Administrator of the Agency for Healthcare Research and Quality, shall develop and maintain an Internet clearinghouse to improve health care quality for individuals with specific cultural needs or with limited English proficiency or low functional health literacy and to reduce or eliminate the duplication of effort to translate materials.

(b) **TEMPLATES.**—In developing the clearinghouse under subsection (a), the Director of the Office of Minority Health and Health Disparities shall develop, test, and make available templates for standard documents that are necessary for patients and consumers to access and make educated decisions about their health care, including—

- (1) administrative and legal documents;
- (2) clinical information such as how to take medications, how to prevent transmission of a contagious disease, and other prevention and treatment instructions; and
- (3) patient education and outreach materials such as immunization notices, health warnings, or screening notices.

(c) **ONLINE LIBRARY OR DATABASE.**—The Director of the Office of Minority Health and Health Disparities shall develop a readily accessible online library or database with searchable clinically relevant cultural information that is important for health care providers to have on hand in the direct provision of medical care to individuals from specific minority, ethnic, or other health disparity groups.

TITLE V—ENHANCED RESEARCH

SEC. 501. AGENCY FOR HEALTHCARE RESEARCH AND QUALITY.

Part B of title IX of the Public Health Service Act (42 U.S.C. 299b) is amended by adding at the end the following:

“SEC. 918. ENHANCED RESEARCH WITH RESPECT TO HEALTH DISPARITIES.

“(a) **ACCELERATING THE ELIMINATION OF DISPARITIES.**—

“(1) **IN GENERAL.**—The Secretary, acting through the Director, may award grants or contracts to eligible entities (as defined in paragraph (4)) for short-term research to analyze the causes of disparities and identify or develop and evaluate effective strategies in closing the health care gap between minority and health disparity populations and nonminority populations or non-health disparity populations.

“(2) **PROMPT USE OF RESEARCH.**—To ensure that research described in paragraph (1) is effective and is disseminated and applied promptly, the Director shall—

“(A) expand practice-based research networks (primary care and larger delivery systems) to include networks of delivery sites serving large numbers of minority and health disparity populations including—

- “(i) public hospitals;
- “(ii) health centers; and
- “(iii) other sites as determined appropriate by the Director;

“(B) work with health care providers to identify and develop those interventions for minority and health disparity populations for which effective implementation strategies are not clear; and

“(C) develop a broad virtual network of continuous learning among health care providers (including institutions that did not re-

ceive a grant or contract under paragraph (1)) so that those participating in research can share findings and experience throughout the duration of such research and to facilitate interest in and prompt adoption of such findings and experience.

“(3) **TECHNICAL ASSISTANCE.**—The Director of the Agency for Healthcare Research and Quality shall provide technical assistance to assist in the implementation of strategies of evidence-based practices that will reduce health care disparities.

“(4) **ELIGIBLE ENTITIES.**—In paragraph (1), the term ‘eligible entities’ means institutions with researchers who have experience in conducting research relating to minority health and health disparity populations.

“(5) **PUBLIC HOSPITALS.**—In this subsection, the term ‘public hospitals’ means a hospital (as defined in section 1886(d)(1)(B) of the Social Security Act) that—

“(A) is owned or operated by a unit of State or local government, is a public or private non-profit corporation which is formally granted governmental powers by a unit of State or local government, or is a private non-profit hospital that has a contract with a State or local government to provide health care services to low income individuals who are not entitled to benefits under title XVIII of the Social Security Act or eligible for assistance under the State plan under title XIX of the Social Security Act; and

“(B) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F) of the Social Security Act) greater than 11.75 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act.

“(b) **REALIZING THE POTENTIAL OF DISEASE MANAGEMENT.**—

“(1) **PUBLIC-PRIVATE SECTOR PARTNERSHIP TO ASSESS EFFECTIVENESS OF EXISTING DATA MANAGEMENT STRATEGIES.**—The Director shall establish a public-private partnership to assess the effectiveness of disease management strategies and identify effective interventions and support strategies with respect to minority and health disparity populations.

“(2) **EFFECTIVE MANAGEMENT OF PATIENTS WITH MULTIPLE CHRONIC DISEASES.**—

“(A) **INITIATIVE FOR DISEASE MANAGEMENT STRATEGIES.**—The Director shall coordinate an initiative to identify those chronic conditions for which disease-specific disease management strategies pose conflicts in preferred clinical interventions.

“(B) **RESEARCH.**—The Director, with support from other agencies within the Department of Health and Human Services shall conduct a program of research based in community and primary-care settings to test and evaluate the implications for patient outcomes of alternative approaches for reconciling conflicts from disease-specific disease management initiatives.

“(c) **DEVELOPMENT OF EFFECTIVE MEASUREMENT OF DISPARITIES.**—

“(1) **IN GENERAL.**—The Director shall conduct a demonstration project to—

“(A) assess alternative strategies for identifying population subgroups at highest risk of poor quality and poor health;

“(B) improve data collection for health care priority populations (as described in section 901(c)(1)(B));

“(C) improve the ability to identify the causes of disparities; and

“(D) track progress in reducing health care disparities with a focus on—

“(i) the minimum data set necessary to track such progress; and

“(ii) the identification of measures for which data currently being collected are insufficient.

“(2) **REPORT.**—Not later than 3 years after the date the demonstration project described in paragraph (1) receives funding, the Director shall submit to the appropriate committees of Congress a report containing the findings of the demonstration project together with any policy recommendations.

“(d) **ANALYSIS OF RACIAL, ETHNIC, AND OTHER HEALTH DISPARITY DATA.**—The Secretary, acting through the Director of the Agency for Healthcare Research and Quality, and in coordination with the Administrator of the Centers for Medicare & Medicaid Services and the Director of the Centers for Disease Control and Prevention, shall provide technical assistance to agencies of the Department of Health and Human Services in meeting Federal standards for race, ethnicity, and other health disparity data collection and analysis of racial, ethnic, and other disparities in health and health care in Federally-administered programs by—

“(1) identifying appropriate quality assurance mechanisms to monitor for health disparities;

“(2) specifying the clinical, diagnostic, or therapeutic measures which should be monitored;

“(3) developing new quality measures relating to racial, ethnic, or other health disparities;

“(4) identifying the level at which data analysis should be conducted; and

“(5) sharing data with external organizations for research and quality improvement purposes.”.

SEC. 502. NATIONAL INSTITUTES OF HEALTH.

The Director of the National Institutes of Health, in consultation with the Director of the National Center on Minority Health and Health Disparities, shall expand and intensify research at the National Institutes of Health relating to the sources of health and health care disparities, and increase efforts to recruit minority scientists and research professionals into the field of health disparity research.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. DEFINITIONS.

(a) **IN GENERAL.**—In this Act, including the amendments made by this Act:

(1) **CULTURALLY COMPETENT.**—

(A) **IN GENERAL.**—The term “culturally competent”, with respect to the manner in which health-related services, education, and training are provided, means providing the services, education, and training in the language and cultural context that is most appropriate for the individuals for whom the services, education, and training are intended, including as necessary the provision of bilingual services.

(B) **MODIFICATION.**—The definition established in subparagraph (A) may be modified as needed at the discretion of the Secretary after providing a 30-day notice to Congress.

(2) **MINORITY HEALTH CONDITIONS.**—The term “minority health conditions”, with respect to individuals who are members of minority groups, means all diseases, disorders, and conditions (including with respect to mental health and substance abuse)—

(A) unique to, more serious, or more prevalent in such groups;

(B) for which the factors of medical risk or types of medical intervention may be different for such groups, or for which it is unknown whether such factors or types are different for such individuals; or

(C) with respect to which there has been insufficient research involving such individual members of such groups as subjects or insufficient data on such individuals.

(3) MINORITY HEALTH DISPARITIES RESEARCH.—The term “minority health disparities research” means basic, clinical, behavioral and health services research on minority health conditions (as defined in paragraph (2)), including research to prevent, diagnose, and treat such conditions.

(4) MINORITY.—The terms “minority” and “minorities” refer to individuals from a minority group.

(5) MINORITY GROUP.—The term “minority group” has the meaning given the term “racial and ethnic minority group” in section 1707 of the Public Health Service Act (42 U.S.C. 300u-6).

(b) HEALTH DISPARITY POPULATIONS.—In this Act, including the amendments made by this Act:

(1) HEALTH DISPARITY POPULATION.—The term “health disparity population” has the meaning given such term in section 903(d)(1) of the Public Health Service Act (42 U.S.C. 299a-1(d)(1)).

(2) HEALTH DISPARITIES RESEARCH.—The term “health disparities research” shall include basic, clinical, behavioral, and health services research on health disparity populations (including individual members and communities of such populations) that relates to health disparities as defined under paragraph (1), including the causes of such disparities and methods to prevent, diagnose, and treat such disparities.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 321—RECOGNIZING THE LOYAL SERVICE AND OUTSTANDING CONTRIBUTIONS OF J. ROBERT OPPENHEIMER TO THE UNITED STATES AND CALLING ON THE SECRETARY OF ENERGY TO OBSERVE THE 100TH ANNIVERSARY OF DR. OPPENHEIMER'S BIRTH WITH APPROPRIATE PROGRAMS AT THE DEPARTMENT OF ENERGY AND THE LOS ALAMOS NATIONAL LABORATORY

Mr. BINGAMAN (for himself, Mr. DOMENICI, and Mrs. FEINSTEIN) submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

S. RES. 321

Whereas, from March 1943 to October 1945, J. Robert Oppenheimer was the first director of the Los Alamos Laboratory, New Mexico, which was used to design and build the nuclear weapons that ended the Second World War;

Whereas, following the end of the Second World War, Dr. Oppenheimer served as a science adviser and consultant to each of the 3 principal committees planning for the postwar control of nuclear energy, including the Secretary of War's Interim Committee on Atomic Energy, the Secretary of State's Committee on Atomic Energy, and the United Nations Atomic Energy Committee;

Whereas, from 1947 to 1952, Dr. Oppenheimer was the first chairman of the General Advisory Committee, which advised the Atomic Energy Commission on scientific and technical matters;

Whereas, from 1947 to 1954, Dr. Oppenheimer also served on defense policy committees, including the Committee on Atomic Energy of the Joint Research and Development Board, the Science Advisory Committee of the Office of Defense Mobilization, and the Panel on Disarmament of the Department of State;

Whereas, in addition to his service to the United States Government, Dr. Oppenheimer was the director of the Institute for Advanced Study at Princeton University from 1947 to 1965;

Whereas, in 1946, President Truman conferred on Dr. Oppenheimer the Medal for Merit “for exceptionally meritorious conduct in the performance of outstanding service” as director of the Los Alamos Laboratory and for development of the atomic bomb;

Whereas, in 1963, President Lyndon Johnson conferred on Dr. Oppenheimer the Enrico Fermi Award “for contributions to theoretical physics as a teacher and originator of ideas and for leadership of the Los Alamos Laboratory and the atomic energy program during critical years”; and

Whereas April 22, 2004, is the 100th anniversary of Dr. Oppenheimer's birth: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the loyal service of J. Robert Oppenheimer to the United States and the outstanding contributions he made to theoretical physics, the Los Alamos National Laboratory, the development of nuclear energy, and the common defense and security of the United States; and

(2) calls on the Secretary of Energy to observe the 100th anniversary of the birth of J. Robert Oppenheimer with appropriate ceremonies, activities, or programs at the Department of Energy and the Los Alamos National Laboratory.

SENATE RESOLUTION 320—DESIGNATING THE WEEK OF MARCH 7 THROUGH MARCH 13, 2004, AS “NATIONAL PATIENT SAFETY AWARENESS WEEK”

Mr. GRAHAM of Florida (for himself, Ms. SNOWE, Mr. GREGG, Mr. DODD, Mr. JEFFORDS, Mr. BREAUX, Mr. FRIST, and Mr. ENZI) submitted the following resolution; which was considered and agreed to:

S. RES. 320

Whereas patient safety is an issue of significant importance to the United States;

Whereas 1 in every 5 citizens of the United States has experienced a medical error or has a family member who has experienced a medical error;

Whereas medical errors often have serious and profound consequences;

Whereas it is estimated that injuries from preventable medical errors cost the United States economy between \$17,000,000,000 and \$29,000,000,000 each year;

Whereas more people die annually from medical errors than from automobile accidents, breast cancer, and AIDS;

Whereas increased patient and provider education and collaboration can help avoid medical errors;

Whereas the Institute of Medicine has stated that a “critical component of a comprehensive strategy to improve patient safety is to create an environment that encourages organizations to identify errors, evaluate causes and take appropriate actions to improve performance in the future,” and further, that “a more conducive environment is needed to encourage health care professionals and organizations to identify, analyze, and report errors without threat of litigation and without compromising patients' legal rights”;

Whereas better systems can be implemented to reduce the factors that lead to medical errors;

Whereas innovative educational and research programs are being conducted by the

National Patient Safety Foundation as well as by other public and private entities to develop methods for avoiding preventable injuries and to assess the effectiveness of new techniques to increase patient safety; and

Whereas education of the public on medical errors and the factors that typically lead to medical errors empowers patients to be more effective partners with health care providers in the battle against preventable injuries from medical errors: Now, therefore, be it

Resolved, That the Senate—

(1) designates the week of March 7 through March 13, 2004, as “National Patient Safety Awareness Week”; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the week with appropriate programs and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2856. Mr. FRIST (for Mrs. HUTCHISON) proposed an amendment to the bill H.R. 254, to authorize the President of the United States to agree to certain amendments to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank, and for other purposes.

SA 2857. Mr. FRIST (for Mr. EDWARDS (for himself and Mrs. DOLE)) proposed an amendment to the resolution S. Res. 307, honoring the county of Cumberland, North Carolina, its municipalities and community partners as they celebrate the 250th year of the existence of Cumberland County.

SA 2858. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1997, to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes; which was ordered to lie on the table.

SA 2859. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 1997, *supra*; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2856. Mr. FRIST (for Mrs. HUTCHISON) proposed an amendment to the bill H.R. 254, to authorize the President of the United States to agree to certain amendment to the Agreement between the Government of the United States of America and the Government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION. 1. AUTHORITY TO AGREE TO CERTAIN AMENDMENTS TO THE BORDER ENVIRONMENT COOPERATION AGREEMENT; GRANT AUTHORITY.

(a) AMENDMENT AUTHORITY.—Part 2 of subtitle D of title V of Public Law 103-182 (22 U.S.C. 290m-290m-3) is amended by adding at the end the following:

“SEC. 545. AUTHORITY TO AGREE TO CERTAIN AMENDMENTS TO THE BORDER ENVIRONMENT COOPERATION AGREEMENT.

“The President may agree to amendments to the Cooperation Agreement that—

“(1) enable the Bank to make grants and nonmarket rate loans out of its paid-in capital resources with the approval of its Board; and

“(2) amend the definition of ‘border region’ to include the area in the United States that is within 100 kilometers of the international boundary between the United States and Mexico, and the area in Mexico that is within 300 kilometers of the international boundary between the United States and Mexico.”.

(b) GRANT AUTHORITY.—Part 2 of subtitle D of title V of Public Law 103-182 (22 U.S.C. 290m-290m-3), as amended by subsection (a), is amended by adding at the end the following:

“SEC. 546. GRANTS OUT OF PAID-IN CAPITAL RESOURCES.

“(a) IN GENERAL.—The President shall instruct the United States Federal Government representatives on the Board of Directors of the North American Development Bank to oppose any proposal where grants out of the Bank’s paid-in capital resources, except for grants from paid-in capital authorized for the community adjustment and investment program under the Bank’s charter of 1993, would—

“(1) be made to a project that is not being financed, in part, by loans; or

“(2) account for more than 50 percent of the financing of any individual project.

“(b) EXCEPTION.—

“(1) GENERAL RULE.—The requirements of subsection (a) shall not apply in cases where—

“(A) the President determines there are exceptional economic circumstances for making the grant and consults with the Committee on Foreign Relations of the Senate and the Committee on Financial Services of the House of Representatives; or

“(B)(i) the grant is being made for a project that is so small that obtaining a loan is impractical; and

“(ii) the grant does not exceed \$250,000.

“(2) LIMITATION.—Not more than an aggregate of \$5,000,000 in grants may be made under this subsection.”.

(c) CLERICAL AMENDMENT.—Section 1(b) of such public law is amended in the table of contents by inserting after the item relating to section 544 the following:

“Sec. 545. Authority to agree to certain amendments to the Border Environment Cooperation Agreement.

“Sec. 546. Grants out of paid-in capital resources.”.

SEC. 2. ANNUAL REPORT.

The Secretary of the Treasury shall submit annually to the Committee on Financial Services of the House of Representatives and the Committee on Foreign Relations of the Senate a written report on the North American Development Bank, which addresses the following issues:

(1) The number and description of the projects that the North American Development Bank has approved. The description shall include the level of market-rate loans, non-market-rate loans, and grants used in an approved project, and a description of whether an approved project is located within 100 kilometers of the international boundary between the United States and Mexico or within 300 kilometers of the international boundary between the United States and Mexico.

(2) The number and description of the approved projects in which money has been dispersed.

(3) The number and description of the projects which have been certified by the Border Environment Cooperation Commission, but yet not financed by the North American Development Bank, and the reasons that the projects have not yet been financed.

(4) The total of the paid-in capital, callable capital, and retained earnings of the North American Development Bank, and the uses of such amounts.

(5) A description of any efforts and discussions between the United States and Mexican governments to expand the type of projects which the North American Development Bank finances beyond environmental projects.

(6) A description of any efforts and discussions between the United States and Mexican governments to improve the effectiveness of the North American Development Bank.

(7) The number and description of projects authorized under the Water Conservation Investment Fund of the North American Development Bank.

SEC. 3. SENSE OF THE CONGRESS RELATING TO UNITED STATES SUPPORT FOR NADBANK PROJECTS WHICH FINANCE WATER CONSERVATION FOR TEXAS IRRIGATORS AND AGRICULTURAL PRODUCERS IN THE LOWER RIO GRANDE RIVER VALLEY.

(a) FINDINGS.—The Congress finds that—

(1) Texas irrigators and agricultural producers are suffering enormous hardships in the lower Rio Grande River valley because of Mexico’s failure to abide by the 1944 Water Treaty entered into by the United States and Mexico;

(2) over the last 10 years, Mexico has accumulated a 1,500,000-acre fee water debt to the United States which has resulted in a very minimal and inadequate irrigation water supply in Texas;

(3) recent studies by Texas A&M University show that water savings of 30 percent or more can be achieved by improvements in irrigation system infrastructure such as canal lining and metering;

(4) on August 20, 2002, the Board of the North American Development Bank agreed to the creation in the Bank of a Water Conservation Investment Fund, as required by Minute 308 to the 1944 Water Treaty, which was an agreement signed by the United States and Mexico on June 28, 2002; and

(5) the Water Conservation Investment Fund of the North American Development Bank stated that up to \$80,000,000 would be available for grant financing of water conservation projects, which grant funds would be divided equally between the United States and Mexico.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) water conservation projects are eligible for funding from the North American Development Bank under the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank; and

(2) the Board of the North American Development Bank should support qualified water conservation projects which can assist Texas irrigators and agricultural producers in the lower Rio Grande River Valley.

SEC. 4. SENSE OF THE CONGRESS RELATING TO UNITED STATES SUPPORT FOR NADBANK PROJECTS WHICH FINANCE WATER CONSERVATION IN THE SOUTHERN CALIFORNIA AREA.

It is the sense of the Congress that the Board of the North American Development Bank should support—

(1) the development of qualified water conservation projects in southern California and other eligible areas in the 4 United States border States, including the conjunctive use and storage of surface and ground water, delivery system conservation, the re-regulation of reservoirs, improved irrigation practices, wastewater reclamation, regional

water management modeling, operational and optimization studies to improve water conservation, and cross-border water exchanges consistent with treaties; and

(2) new water supply research and projects along the Mexico border in southern California and other eligible areas in the 4 United States border States to desalinate ocean seawater and brackish surface and groundwater, and dispose of or manage the brines resulting from desalination.

SEC. 5. SENSE OF THE CONGRESS RELATING TO UNITED STATES SUPPORT FOR NADBANK PROJECTS FOR WHICH FINANCE WATER CONSERVATION FOR IRRIGATORS AND AGRICULTURAL PRODUCERS IN THE SOUTHWEST UNITED STATES.

(a) FINDINGS.—The Congress finds as follows:

(1) Irrigators and agricultural producers are suffering enormous hardships in the southwest United States. The border States of California, Arizona, New Mexico, and Texas are suffering from one of the worst droughts in history. In Arizona, this is the second driest period in recorded history and the worst since 1904.

(2) In spite of decades of water conservation in the southwest United States, irrigated agriculture uses more than 60 percent of surface and ground water.

(3) The most inadequate water supplies in the United States are in the Southwest, including the lower Colorado River basin and the Great Plains River basins south of the Platte River. In these areas, 70 percent of the water taken from the stream is not returned.

(4) The amount of water being pumped out of groundwater sources in many areas is greater than the amount being replenished, thus depleting the groundwater supply.

(5) On August 20, 2002, the Board of the North American Development Bank agreed to the creation in the bank of a Water Conservation Investment Fund.

(6) The Water Conservation Investment Fund of the North American Development Bank stated that up to \$80,000,000 would be available for grant financing of water conservation projects, which grant funds would be divided equally between the United States and Mexico.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) water conservation projects are eligible for funding from the North American Development Bank under the Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a Border Environment Cooperation Commission and a North American Development Bank;

(2) the Board of the North American Development Bank should support qualified water conservation projects that can assist irrigators and agricultural producers; and

(3) the Board of the North American Development Bank should take into consideration the needs of all of the border states before approving funding for water projects, and strive to fund water conservation projects in each of the border states.

SEC. 6. SENSE OF THE CONGRESS REGARDING FINANCING OF PROJECTS.

(a) IN GENERAL.—It is the sense of the Congress that the Board of the North American Development Bank should support the financing of projects, on both sides of the international boundary between the United States and Mexico, that address coastal issues and the problem of pollution in both countries having an environmental impact along the Pacific Ocean and Gulf of Mexico shores of the United States and Mexico.

(b) AIR POLLUTION.—It is the sense of the Congress that the Board of the North American Development Bank should support the

financing of projects, on both sides of the international boundary between the United States and Mexico, which address air pollution.

SA 2857. Mr. FRIST (for Mr. EDWARDS (for himself and Mrs. DOLE)) proposed an amendment to the resolution S. Res. 307, honoring the county of Cumberland, North Carolina, its municipalities and community partners as they celebrate the 250th year of the existence of Cumberland County; as follows:

Strike all after the resolved clause and insert the following:

That the Senate commemorates the 250th Anniversary Celebration of the county of Cumberland, North Carolina, its municipalities, and other community partners.

SA 2858. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill H.R. 1997, to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes; which was ordered to lie on the table; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Motherhood Protection Act".

SEC. 2. PROTECTION OF PREGNANT WOMEN.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 90 the following:

"CHAPTER 90A—PROTECTION OF PREGNANT WOMEN

"CHAPTER 90A—PROTECTION OF PREGNANT WOMEN

"Sec.

"1841. Causing termination of pregnancy or interruption of the normal course of pregnancy.

"§ 1841. Causing termination of pregnancy or interruption of the normal course of pregnancy

"(a)(1) Any person who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the termination of a pregnancy or the interruption of the normal course of pregnancy, including termination of the pregnancy other than by live birth is guilty of a separate offense under this section.

"(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment provided for that conduct under Federal law had that injury or death occurred to the pregnant woman.

"(B) An offense under this section does not require proof that—

"(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

"(ii) the defendant intended to cause the termination or interruption of the normal course of pregnancy.

"(C) If the person engaging in the conduct thereby intentionally causes or attempts to cause the termination of or the interruption of the pregnancy, that person shall be punished as provided under section 1111, 1112, or 1113, as applicable, for intentionally terminating or interrupting the pregnancy or attempting to do so, instead of the penalties that would otherwise apply under subparagraph (A).

"(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

"(b) The provisions referred to in subsection (a) are the following:

"(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247, 248, 351, 831, 844(d), 844(f), 844(h)(1), 844(i), 924(j), 930, 1111, 1112, 1113, 1114, 1116, 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952(a)(1)(B), 1952(a)(2)(B), 1952(a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191, 2231, 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A, and 2441 of this title.

"(2) Section 408(e) of the Controlled Substances Act of 1970 (21 U.S.C. 848(e)).

"(3) Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).

"(c) Subsection (a) does not permit prosecution—

"(1) for conduct relating to an abortion for which the consent of the pregnant woman has been obtained or for which such consent is implied by law in a medical emergency;

"(2) for conduct relating to any medical treatment of the pregnant woman, or matters related to the pregnancy; or

"(3) of any woman with respect to her pregnancy."

(b) CLERICAL AMENDMENT.—The table of chapters for part 1 of title 18, United States Code, is amended by inserting after the item relating to chapter 90 the following:

"90A. Protection of pregnant women 1841". SEC. 3. MILITARY JUSTICE SYSTEM.

(a) PROTECTION OF PREGNANT WOMEN.—Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 919 (article 119) the following:

"§ Sec. 919a. Art. 119a. Causing termination of pregnancy or interruption of normal course of pregnancy

"(a)(1) Any person subject to this chapter who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the termination of a pregnancy or the interruption of the normal course of pregnancy, including termination of the pregnancy other than by live birth, is guilty of a separate offense under this section.

"(2)(A) Except as otherwise provided in this paragraph, the punishment for that separate offense is the same as the punishment for that conduct under this chapter had that injury or death occurred to the pregnant woman.

"(B) An offense under this section does not require proof that—

"(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

"(ii) the defendant intended to cause the termination or interruption of the normal course of pregnancy.

"(C) If the person engaging in the conduct thereby intentionally causes or attempts to cause the termination of or the interruption of the pregnancy, that persons shall be punished as provided under section 918, 919, or 880 of this title (article 118, 119, or 80), as applicable, for intentionally causing the termination of or interruption of the pregnancy or attempting to do so, instead of the penalties that would otherwise apply under subparagraph (A).

"(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

"(b) The provisions referred to in subsection (a) are sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and 928 of this title (articles 111, 118, 119(a), 119(b)(2), 120(a), 122, 124, 126, and 128).

"(c) Subsection (a) does not permit prosecution—

"(1) for conduct relating to an abortion for which the consent of the pregnant woman

has been obtained or for which such consent is implied by law in a medical emergency;

"(2) for conduct relating to any medical treatment of the pregnant woman or matters relating to her pregnancy; or

"(3) of any woman with respect to her pregnancy."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after the item relating to section 919 the following:

"919a. Causing termination of pregnancy and termination of normal course of pregnancy."

SA 2859. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 1997, to amend title 18, United States Code, and the Uniform Code of Military Justice to protect unborn children from assault and murder, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, strike line 8 and all that follows and insert the following:

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after the item relating to section 919 the following:

"919a. 119a. Causing death of or bodily injury to unborn child."

DIVISION II—DOMESTIC VIOLENCE PREVENTION

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the "Paul and Sheila Wellstone Domestic Violence Prevention Act".

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

Sec. 1. Short title; table of contents.

TITLE I—VICTIMS' ECONOMIC SECURITY AND SAFETY

Sec. 101. Short title.

Sec. 102. Findings.

Sec. 103. Definitions.

Subtitle A—Entitlement to Emergency Leave for Addressing Domestic or Sexual Violence

Sec. 111. Purposes.

Sec. 112. Entitlement to emergency leave for addressing domestic or sexual violence.

Sec. 113. Existing leave usable for addressing domestic or sexual violence.

Sec. 114. Emergency benefits.

Sec. 115. Effect on other laws and employment benefits.

Sec. 116. Conforming amendment.

Sec. 117. Effective date.

Subtitle B—Entitlement to Unemployment Compensation for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Sec. 121. Purposes.

Sec. 122. Unemployment compensation and training provisions.

Subtitle C—Victims' Employment Sustainability

Sec. 131. Short title.

Sec. 132. Purposes.

Sec. 133. Prohibited discriminatory acts.

Sec. 134. Enforcement.

Sec. 135. Attorney's fees.

Subtitle D—Victims of Abuse Insurance Protection

Sec. 141. Short title.

Sec. 142. Definitions.

Sec. 143. Discriminatory acts prohibited.

- Sec. 144. Insurance protocols for subjects of abuse.
- Sec. 145. Reasons for adverse actions.
- Sec. 146. Life insurance.
- Sec. 147. Subrogation without consent prohibited.
- Sec. 148. Enforcement.
- Sec. 149. Effective date.

Subtitle E—Workplace Safety Program Tax Credit

- Sec. 151. Credit for costs to employers of implementing workplace safety programs.

Subtitle F—National Clearinghouse on Domestic and Sexual Violence in the Workplace Grant

- Sec. 161. National clearinghouse on domestic and sexual violence in the workplace grant.

Subtitle G—Severability

- Sec. 171. Severability.

TITLE II—CHILDREN WHO WITNESS DOMESTIC VIOLENCE

- Sec. 201. Short title.
- Sec. 202. Findings.
- Sec. 203. Purpose.
- Sec. 204. Definitions.
- Sec. 205. Services for children exposed to domestic violence.
- Sec. 206. Grants to combat the impact of experiencing or witnessing domestic violence on elementary and secondary school children.
- Sec. 207. Grants for training and collaboration among child welfare agencies, domestic violence and sexual assault service providers, the courts and law enforcement agencies.
- Sec. 208. Multisystem interventions for children who have been exposed to domestic violence.
- Sec. 209. Crisis nursery demonstration grants program.
- Sec. 210. Research and data collection on the impact of domestic violence on children.

TITLE III—DOMESTIC VIOLENCE SCREENING, TREATMENT, AND PREVENTION

- Sec. 301. Short title.
- Sec. 302. Findings.
- Subtitle A—Research on Health and Family Violence
- Sec. 311. Health research on family violence.
- Subtitle B—Health Professional Education Programs

- Sec. 321. Health professional education grants.
- Subtitle C—Grants to Foster Public Health Responses to Domestic Violence

- Sec. 331. Grants.
- Subtitle D—Provision of Services Under Federal Health Programs

- Sec. 341. Optional coverage of domestic violence identification and treatment under the medicaid program.
- Sec. 342. Federal Employees Health Benefits Program.
- Sec. 343. Training grants under the Maternal and Child Health Services Block Grant.
- Sec. 344. Domestic violence identification and treatment services at community health centers.

TITLE I—VICTIMS' ECONOMIC SECURITY AND SAFETY

SEC. 101. SHORT TITLE.

This title may be cited as the "Victims' Economic Security and Safety Act".

SEC. 102. FINDINGS.

Congress makes the following findings:

(1) Domestic violence crimes account for approximately 15 percent of total crime costs in the United States each year.

(2) Violence against women has been reported to be the leading cause of physical injury to women. Such violence has a devastating impact on women's physical and emotional health and financial security.

(3) According to recent government surveys, from 1993 through 1998 the average annual number of violent victimizations committed by intimate partners was 1,082,110, 87 percent of which were committed against women. Female murder victims were substantially more likely than male murder victims to have been killed by an intimate partner. About 1/3 of female murder victims, and about 4 percent of male murder victims, were killed by an intimate partner.

(4) According to recent government estimates, approximately 987,400 rapes occur annually in the United States, 89 percent of the rapes perpetrated against female victims.

(5) Approximately 10,200,000 people have been stalked at some time in their lives. Four out of every 5 stalking victims are women. Stalkers harass and terrorize their victims by spying on the victims, standing outside their places of work or homes, making unwanted phone calls, sending or leaving unwanted letters or items, or vandalizing property.

(6) Employees in the United States who have been victims of domestic violence, dating violence, sexual assault, or stalking too often suffer adverse consequences in the workplace as a result of their victimization.

(7) Victims of domestic violence, dating violence, sexual assault, and stalking are particularly vulnerable to changes in employment, pay, and benefits as a result of their victimizations, and are, therefore, in need of legal protection.

(8) The prevalence of domestic violence, dating violence, sexual assault, stalking, and other violence against women at work is dramatic. Approximately 11 percent of all rapes occur in the workplace. About 50,500 individuals, 83 percent of whom are women, were raped or sexually assaulted in the workplace each year from 1992 through 1996. Half of all female victims of violent workplace crimes know their attackers. Nearly 1 out of 10 violent workplace incidents are committed by partners or spouses. Women who work for State or local governments suffer a higher incidence of workplace assaults, including rapes, than women who work in the private sector.

(9) Homicide is the leading cause of death for women on the job. Husbands, boyfriends, and ex-partners commit 15 percent of workplace homicides against women.

(10) Studies indicate that between 35 and 56 percent of employed battered women surveyed were harassed at work by their abusive partners.

(11) According to a 1998 report of the General Accounting Office, between 1/4 and 1/2 of domestic violence victims surveyed in 3 studies reported that the victims lost a job due, at least in part, to domestic violence.

(12) Women who have experienced domestic violence or dating violence are more likely than other women to be unemployed, to suffer from health problems that can affect employability and job performance, to report lower personal income, and to rely on welfare.

(13) Abusers frequently seek to control their partners by actively interfering with their ability to work, including preventing their partners from going to work, harassing their partners at work, limiting the access of their partners to cash or transportation, and sabotaging the child care arrangements of their partners.

(14) More than 1/2 of women receiving welfare have been victims of domestic violence as adults and between 1/4 and 1/3 reported being abused in the last year.

(15) Sexual assault, whether occurring in or out of the workplace, can impair an employee's work performance, require time away from work, and undermine the employee's ability to maintain a job. Almost 50 percent of sexual assault survivors lose their jobs or are forced to quit in the aftermath of the assaults.

(16) More than 1/4 of stalking victims report losing time from work due to the stalking and 7 percent never return to work.

(17)(A) According to the National Institute of Justice, crime costs an estimated \$450,000,000,000 annually in medical expenses, lost earnings, social service costs, pain, suffering, and reduced quality of life for victims, which harms the Nation's productivity and drains the Nation's resources.

(B) Violent crime accounts for \$426,000,000,000 per year of this amount.

(C) Rape exacts the highest costs per victim of any criminal offense, and accounts for \$127,000,000,000 per year of the amount described in subparagraph (A).

(18) Violent crime results in wage losses equivalent to 1 percent of all United States earnings, and causes 3 percent of the Nation's medical spending and 14 percent of the Nation's injury-related medical spending.

(19) The Bureau of National Affairs has estimated that domestic violence costs United States employers between \$3,000,000,000 and \$5,000,000,000 annually in lost time and productivity. Other reports have estimated that domestic violence costs United States employers \$13,000,000,000 annually.

(20) United States medical costs for domestic violence have been estimated to be \$31,000,000,000 per year.

(21) Surveys of business executives and corporate security directors also underscore the heavy toll that workplace violence takes on women, businesses, and interstate commerce in the United States.

(22) Ninety-four percent of corporate security and safety directors at companies nationwide rank domestic violence as a high security concern.

(23) Forty-nine percent of senior executives recently surveyed said domestic violence has a harmful effect on their company's productivity, 47 percent said domestic violence negatively affects attendance, and 44 percent said domestic violence increases health care costs.

(24) Only 16 States have laws that explicitly provide unemployment insurance to domestic violence victims in certain circumstances, and none of the laws explicitly cover victims of sexual assault or stalking.

(25) Only 2 States provide domestic violence victims with leave from work to go to court, to the doctor, or to take other steps to address the domestic violence in their lives, and only Maine provides such leave to victims of sexual assault and stalking.

(26) No States prohibit employment discrimination against victims of domestic violence, sexual assault, or stalking. New York City is the only jurisdiction with a law prohibiting employment discrimination against actual or perceived victims of domestic violence.

(27) Employees, including individuals participating in welfare to work programs, may need to take time during business hours to—

- (A) obtain orders of protection;
- (B) seek medical or legal assistance, counseling, or other services; or
- (C) look for housing in order to escape from domestic violence.

(28) Domestic and sexual violence victims have been subjected to discrimination by private and State employers, including discrimination motivated by sex and stereotypical notions about women.

(29) Existing Federal law does not explicitly—

(A) authorize victims of domestic violence, dating violence, sexual assault, or stalking to take leave from work to seek legal assistance and redress, counseling, or assistance with safety planning activities;

(B) address the eligibility of victims of domestic violence, dating violence, sexual assault, or stalking for unemployment compensation; or

(C) prohibit employment discrimination against actual or perceived victims of domestic violence, dating violence, sexual assault, or stalking.

SEC. 103. DEFINITIONS.

In this title, except as otherwise expressly provided:

(1) **COMMERCE.**—The terms “commerce” and “industry or activity affecting commerce” have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(2) **COURSE OF CONDUCT.**—The term “course of conduct” means a course of repeatedly maintaining a visual or physical proximity to a person or conveying verbal or written threats, including threats conveyed through electronic communications, or threats implied by conduct.

(3) **DATING VIOLENCE.**—The term “dating violence” has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(4) **DOMESTIC OR SEXUAL VIOLENCE.**—The term “domestic or sexual violence” means domestic violence, dating violence, sexual assault, or stalking.

(5) **DOMESTIC VIOLENCE.**—The term “domestic violence” has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(6) **DOMESTIC VIOLENCE COALITION.**—The term “domestic violence coalition” means a nonprofit, nongovernmental membership organization that—

(A) consists of the entities carrying out a majority of the domestic violence programs carried out within a State;

(B) collaborates and coordinates activities with Federal, State, and local entities to further the purposes of domestic violence intervention and prevention; and

(C) among other activities, provides training and technical assistance to entities carrying out domestic violence programs within a State, territory, political subdivision, or area under Federal authority.

(7) **ELECTRONIC COMMUNICATIONS.**—The term “electronic communications” includes communications via telephone, mobile phone, computer, e-mail, video recorder, fax machine, telex, or pager.

(8) **EMPLOY; STATE.**—The terms “employ” and “State” have the meanings given the terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(9) **EMPLOYEE.**—

(A) **IN GENERAL.**—The term “employee” means any person employed by an employer. In the case of an individual employed by a public agency, such term means an individual employed as described in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)).

(B) **BASIS.**—The term includes a person employed as described in subparagraph (A) on a full- or part-time basis, for a fixed time period, on a temporary basis, pursuant to a detail, as an independent contractor, or as a participant in a work assignment as a condition of receipt of Federal or State income-based public assistance.

(10) **EMPLOYER.**—The term “employer”—

(A) means any person engaged in commerce or in any industry or activity affecting commerce who employs 15 or more individuals; and

(B) includes any person acting directly or indirectly in the interest of an employer in relation to an employee, and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization.

(11) **EMPLOYMENT BENEFITS.**—The term “employment benefits” means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an “employee benefit plan”, as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(12) **PARENT; SON OR DAUGHTER.**—The terms “parent” and “son or daughter” have the meanings given the terms in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(13) **PERSON.**—The term “person” has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(14) **PUBLIC AGENCY.**—The term “public agency” has the meaning given the term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

(15) **PUBLIC ASSISTANCE.**—The term “public assistance” includes cash, food stamps, medical assistance, housing assistance, and other benefits provided on the basis of income by a public agency.

(16) **REDUCED LEAVE SCHEDULE.**—The term “reduced leave schedule” means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(17) **REPEATEDLY.**—The term “repeatedly” means on 2 or more occasions.

(18) **SECRETARY.**—The term “Secretary” means the Secretary of Labor.

(19) **SEXUAL ASSAULT.**—The term “sexual assault” has the meaning given the term in section 826 of the Higher Education Amendments of 1998 (20 U.S.C. 1152).

(20) **SEXUAL ASSAULT COALITION.**—The term “sexual assault coalition” means a nonprofit, nongovernmental membership organization that—

(A) consists of the entities carrying out a majority of the sexual assault programs carried out within a State;

(B) collaborates and coordinates activities with Federal, State, and local entities to further the purposes of sexual assault intervention and prevention; and

(C) among other activities, provides training and technical assistance to entities carrying out sexual assault programs within a State, territory, political subdivision, or area under Federal authority.

(21) **STALKING.**—The term “stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to suffer substantial emotional distress or to fear bodily injury, sexual assault, or death to the person, or the person’s spouse, parent, or son or daughter, or any other person who regularly resides in the person’s household, if the conduct causes the specific person to have such distress or fear.

(22) **VICTIM OF DOMESTIC OR SEXUAL VIOLENCE.**—The term “victim of domestic or sexual violence” includes an individual who has been a victim of domestic or sexual violence and an individual whose family or

household member has been a victim of domestic or sexual violence.

(23) **VICTIM SERVICES ORGANIZATION.**—The term “victim services organization” means a nonprofit, nongovernmental organization that provides assistance to victims of domestic or sexual violence or to advocates for such victims, including a rape crisis center, an organization carrying out a domestic violence program, an organization operating a shelter or providing counseling services, or an organization providing assistance through the legal process.

Subtitle A—Entitlement to Emergency Leave for Addressing Domestic or Sexual Violence

SEC. 111. PURPOSES.

The purposes of this subtitle are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to providing for the general welfare and to regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic or sexual violence to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic or sexual violence, and to reduce the devastating economic consequences of domestic or sexual violence to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic or sexual violence can recover from and cope with the effects of such violence, and participate in criminal and civil justice processes, without fear of adverse economic consequences from their employers;

(3) to ensure that victims of domestic or sexual violence can recover from and cope with the effects of such violence, and participate in criminal and civil justice processes, without fear of adverse economic consequences with respect to public benefits;

(4) to promote the purposes of the 14th amendment by preventing sex-based discrimination and discrimination against victims of domestic and sexual violence in employment leave, by addressing the failure of existing laws to protect the employment rights of victims of domestic or sexual violence, by protecting their civil and economic rights, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination;

(5) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, employment, health care costs, and employer costs, caused by domestic or sexual violence, including intentional efforts to frustrate women’s ability to participate in employment and interstate commerce; and

(6) to accomplish the purposes described in paragraphs (1) through (5) by—

(A) entitling employed victims of domestic or sexual violence to take leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from their employers; and

(B) prohibiting employers from discriminating against actual or perceived victims of domestic or sexual violence, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 112. ENTITLEMENT TO EMERGENCY LEAVE FOR ADDRESSING DOMESTIC OR SEXUAL VIOLENCE.

(a) **LEAVE REQUIREMENT.**—

(1) **BASIS.**—An employee who is a victim of domestic or sexual violence may take leave

from work to address domestic or sexual violence, by—

(A) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence;

(B) obtaining services from a victim services organization;

(C) obtaining psychological or other counseling for the employee or the employee's parent or son or daughter;

(D) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's parent or son or daughter from future domestic or sexual violence or ensure economic security; or

(E) seeking legal assistance or remedies to ensure the health and safety of the employee or the employee's parent or son or daughter, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.

(2) PERIOD.—An employee may take not more than 30 days of leave, as described in paragraph (1), in any 12-month period.

(3) SCHEDULE.—Leave described in paragraph (1) may be taken intermittently or on a reduced leave schedule.

(b) NOTICE.—The employer shall provide the employer with reasonable notice of the employee's intention to take the leave, unless providing such notice is not practicable.

(c) CERTIFICATION.—

(1) IN GENERAL.—The employer may require the employee to provide certification to the employer, within a reasonable period after the employer requires the certification, that—

(A) the employee is a victim of domestic or sexual violence; and

(B) the leave is for 1 of the purposes enumerated in subsection (a)(1).

(2) CONTENTS.—An employee may satisfy the certification requirement of paragraph (1) by providing to the employer—

(A) a sworn statement of the employee;

(B) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional, from whom the employee has sought assistance in addressing domestic or sexual violence and the effects of the violence;

(C) a police or court record; or

(D) other corroborating evidence.

(d) CONFIDENTIALITY.—All information provided to the employer pursuant to subsection (b) or (c), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee has requested or obtained leave pursuant to this section, shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

(1) requested or consented to by the employee; or

(2) otherwise required by applicable Federal or State law.

(e) EMPLOYMENT AND BENEFITS.—

(1) RESTORATION TO POSITION.—

(A) IN GENERAL.—Except as provided in paragraph (2), any employee who takes leave under this section for the intended purpose of the leave shall be entitled, on return from such leave—

(i) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(ii) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(B) LOSS OF BENEFITS.—The taking of leave under this section shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(C) LIMITATIONS.—Nothing in this subsection shall be construed to entitle any restored employee to—

(i) the accrual of any seniority or employment benefits during any period of leave; or

(ii) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(D) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit an employer from requiring an employee on leave under this section to report periodically to the employer on the status and intention of the employee to return to work.

(2) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—

(A) DENIAL OF RESTORATION.—An employer may deny restoration under paragraph (1) to any employee described in subparagraph (B) if—

(i) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(ii) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that such injury would occur; and

(iii) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(B) AFFECTED EMPLOYEES.—An employee referred to in subparagraph (A) is a salaried employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(3) MAINTENANCE OF HEALTH BENEFITS.—

(A) COVERAGE.—Except as provided in subparagraph (B), during any period that an employee takes leave under this section, the employer shall maintain coverage under any group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of such leave.

(B) FAILURE TO RETURN FROM LEAVE.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of leave under this section if—

(i) the employee fails to return from leave under this section after the period of leave to which the employee is entitled has expired; and

(ii) the employee fails to return to work for a reason other than—

(I) the continuation, recurrence, or onset of domestic or sexual violence, that entitles the employee to leave pursuant to this section; or

(II) other circumstances beyond the control of the employee.

(C) CERTIFICATION.—

(i) ISSUANCE.—An employer may require an employee who claims that the employee is unable to return to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii) to provide, within a reasonable period after making the claim, certification to the employer that the employee is unable to return to work because of that reason.

(ii) CONTENTS.—An employee may satisfy the certification requirement of clause (i) by providing to the employer—

(I) a sworn statement of the employee;

(II) documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional, from whom the employee has sought assistance in

addressing domestic or sexual violence and the effects of that violence;

(III) a police or court record; or

(IV) other corroborating evidence.

(D) CONFIDENTIALITY.—All information provided to the employer pursuant to subparagraph (C), including a statement of the employee or any other documentation, record, or corroborating evidence, and the fact that the employee is not returning to work because of a reason described in subclause (I) or (II) of subparagraph (B)(ii) shall be retained in the strictest confidence by the employer, except to the extent that disclosure is—

(i) requested or consented to by the employee; or

(ii) otherwise required by applicable Federal or State law.

(f) PROHIBITED ACTS.—

(1) INTERFERENCE WITH RIGHTS.—

(A) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this section.

(B) EMPLOYER DISCRIMINATION.—It shall be unlawful for any employer to discharge or harass any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner) because the individual—

(i) exercised any right provided under this section; or

(ii) opposed any practice made unlawful by this section.

(C) PUBLIC AGENCY SANCTIONS.—It shall be unlawful for any public agency to deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against any individual with respect to the amount, terms, or conditions of public assistance of the individual (including retaliation in any form or manner) because the individual—

(i) exercised any right provided under this section; or

(ii) opposed any practice made unlawful by this section.

(2) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate (as described in subparagraph (B) or (C) of paragraph (1)) against any individual because such individual—

(A) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this section;

(B) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this section; or

(C) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this section.

(g) ENFORCEMENT.—

(1) CIVIL ACTION BY AFFECTED INDIVIDUALS.—

(A) LIABILITY.—Any employer or public agency that violates subsection (f) shall be liable to any individual affected—

(i) for damages equal to—

(I) the amount of—

(aa) any wages, salary, employment benefits, public assistance, or other compensation denied or lost to such individual by reason of the violation; or

(bb) in a case in which wages, salary, employment benefits, public assistance, or other compensation has not been denied or lost to the individual, any actual monetary losses sustained by the individual as a direct result of the violation;

(II) the interest on the amount described in subclause (I) calculated at the prevailing rate; and

(III) an additional amount as liquidated damages equal to the sum of the amount described in subclause (I) and the interest described in subclause (II), except that if an employer or public agency that has violated subsection (f) proves to the satisfaction of the court that the act or omission that violated subsection (f) was in good faith and that the employer or public agency had reasonable grounds for believing that the act or omission was not a violation of subsection (f), such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under subclauses (I) and (II), respectively; and

(ii) for such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(B) RIGHT OF ACTION.—An action to recover the damages or equitable relief prescribed in subparagraph (A) may be maintained against any employer or public agency in any Federal or State court of competent jurisdiction by any 1 or more affected individuals for and on behalf of—

(i) the individuals; or

(ii) the individuals and other individuals similarly situated.

(C) FEES AND COSTS.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(D) LIMITATIONS.—The right provided by subparagraph (B) to bring an action by or on behalf of any affected individual shall terminate—

(i) on the filing of a complaint by the Secretary in an action under paragraph (4) in which restraint is sought of any further delay in the payment of the amount described in subparagraph (A)(i) to such individual by an employer or public agency responsible under subparagraph (A) for the payment; or

(ii) on the filing of a complaint by the Secretary in an action under paragraph (2) in which a recovery is sought of the damages described in subparagraph (A)(i) owing to an affected individual by an employer or public agency liable under subparagraph (A),

unless the action described in clause (i) or (ii) is dismissed without prejudice on motion of the Secretary.

(2) ACTION BY THE SECRETARY.—

(A) ADMINISTRATIVE ACTION.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of subsection (f) in the same manner as the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(B) CIVIL ACTION.—The Secretary may bring an action in any court of competent jurisdiction to recover the damages described in paragraph (1)(A)(i).

(C) SUMS RECOVERED.—Any sums recovered by the Secretary pursuant to subparagraph (B) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each individual affected. Any such sums not paid to such an individual because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(3) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an action may be brought under this subsection not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(B) WILLFUL VIOLATION.—In the case of such action brought for a willful violation of

subsection (f), such action may be brought within 3 years after the date of the last event constituting the alleged violation for which such action is brought.

(C) COMMENCEMENT.—In determining when an action is commenced by the Secretary under this subsection for the purposes of this paragraph, it shall be considered to be commenced on the date when the complaint is filed.

(4) ACTION FOR INJUNCTION BY SECRETARY.—The district courts of the United States shall have jurisdiction, for cause shown, in an action brought by the Secretary—

(A) to restrain violations of subsection (f), including the restraint of any withholding of payment of wages, salary, employment benefits, public assistance, or other compensation, plus interest, found by the court to be due to affected individuals; or

(B) to award such other equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(5) SOLICITOR OF LABOR.—The Solicitor of Labor may appear for and represent the Secretary on any litigation brought under this subsection.

(6) EMPLOYER LIABILITY UNDER OTHER LAWS.—Nothing in this section shall be construed to limit the liability of an employer or public agency to an individual, for harm suffered relating to the individual's experience of domestic or sexual violence, pursuant to any other Federal or State law, including a law providing for a legal remedy.

SEC. 113. EXISTING LEAVE USABLE FOR ADDRESSING DOMESTIC OR SEXUAL VIOLENCE.

An employee who is entitled to take paid or unpaid leave (including family, medical, sick, annual, personal, or similar leave) from employment, pursuant to State or local law, a collective bargaining agreement, or an employment benefits program or plan, may elect to substitute any period of such leave for an equivalent period of leave provided under section 112.

SEC. 114. EMERGENCY BENEFITS.

(a) IN GENERAL.—A State may use funds provided to the State under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to provide nonrecurrent short-term emergency benefits to an individual for any period of leave the individual takes pursuant to section 112.

(b) ELIGIBILITY.—In calculating the eligibility of an individual for such emergency benefits, the State shall count only the cash available or accessible to the individual.

(c) TIMING.—

(1) APPLICATIONS.—An individual seeking emergency benefits under subsection (a) from a State shall submit an application to the State.

(2) BENEFITS.—The State shall provide benefits to an eligible applicant under paragraph (1) on an expedited basis, and not later than 7 days after the applicant submits an application under paragraph (1).

(d) CONFORMING AMENDMENT.—Section 404 of the Social Security Act (42 U.S.C. 604) is amended by adding at the end the following:

“(1) AUTHORITY TO PROVIDE EMERGENCY BENEFITS.—A State that receives a grant under section 403 may use the grant to provide nonrecurrent short-term emergency benefits, in accordance with section 114 of the Victims' Economic Security and Safety Act, to individuals who take leave pursuant to section 112 of that Act, without regard to whether the individuals receive assistance under the State program funded under this part.”

SEC. 115. EFFECT ON OTHER LAWS AND EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—Nothing in this sub-

title shall be construed to supersede any provision of any Federal, State, or local law, collective bargaining agreement, or employment benefits program or plan that provides—

(1) greater leave benefits for victims of domestic or sexual violence than the rights established under this subtitle; or

(2) leave benefits for a larger population of victims of domestic or sexual violence (as defined in such law, agreement, program, or plan) than the victims of domestic or sexual violence covered under this subtitle.

(b) LESS PROTECTIVE LAWS, AGREEMENTS, PROGRAMS, AND PLANS.—The rights established for victims of domestic or sexual violence under this subtitle shall not be diminished by any State or local law, collective bargaining agreement, or employment benefits program or plan.

SEC. 116. CONFORMING AMENDMENT.

Section 1003(a)(1) of the Rehabilitation Act Amendments of 1986 (42 U.S.C. 2000d-7(a)(1)) is amended by inserting “subtitle A or C of the Victims' Economic Security and Safety Act,” before “or the provisions”.

SEC. 117. EFFECTIVE DATE.

This subtitle and the amendment made by this subtitle take effect 180 days after the date of enactment of this Act.

Subtitle B—Entitlement to Unemployment Compensation for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

SEC. 121. PURPOSES.

The purposes of this subtitle are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to laying and collecting taxes, providing for the general welfare, and regulation of commerce among the several States and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic or sexual violence to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic or sexual violence, and to reduce the devastating economic consequences of domestic or sexual violence to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic or sexual violence can recover from and cope with the effects of such victimization and participate in the criminal and civil justice processes without fear of adverse economic consequences;

(3) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, loss of employment, health care costs, and employer costs, caused by domestic or sexual violence including intentional efforts to frustrate the ability of women to participate in employment and interstate commerce; and

(4) to accomplish the purposes described in paragraphs (1), (2), and (3) by providing unemployment insurance to those who are separated from their employment as a result of domestic or sexual violence, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 122. UNEMPLOYMENT COMPENSATION AND TRAINING PROVISIONS.

(a) UNEMPLOYMENT COMPENSATION.—Section 3304 of the Internal Revenue Code of 1986 (relating to approval of State unemployment compensation laws) is amended—

(1) in subsection (a)—

(A) in paragraph (18), by striking “and” at the end;

(B) by redesignating paragraph (19) as paragraph (20); and

(C) by inserting after paragraph (18) the following new paragraph:

“(19) compensation shall not be denied where an individual is separated from employment due to circumstances resulting from the individual’s experience of domestic or sexual violence; and”;

(2) by adding at the end the following new subsection:

“(g) CONSTRUCTION.—

“(1) IN GENERAL.—For purposes of subsection (a)(19), an individual’s separation from employment shall be treated as due to circumstances resulting from the individual’s experience of domestic or sexual violence if the separation resulted from—

“(A) the individual’s reasonable fear of future domestic or sexual violence at or en route to or from the individual’s place of employment;

“(B) the individual’s wish to relocate in order to avoid future domestic or sexual violence against the individual or the individual’s parent, son, or daughter (as such terms are defined in section 103 of the Victims’ Economic Security and Safety Act);

“(C) the individual’s need to obtain treatment to address the physical or psychological effects of domestic or sexual violence;

“(D) the employer’s denial of the individual’s request for leave from employment to address domestic or sexual violence and its effects on the individual or the individual’s parent, son, or daughter (as such terms are so defined), including leave authorized by section 102 of the Family and Medical Leave Act of 1993 or by subtitle A of the Victims’ Economic Security and Safety Act;

“(E) the employer’s termination of the individual’s employment due to actions, including absences, taken by the individual that were necessary to protect the individual or the individual’s family from domestic or sexual violence;

“(F) the employer’s termination of the individual due to circumstances resulting from the individual’s being, or being perceived to be, a victim of domestic or sexual violence; or

“(G) any other circumstance in which domestic or sexual violence causes the individual to reasonably believe that separation from employment is necessary for the future safety of the individual or the individual’s family.

“(2) REASONABLE EFFORTS TO RETAIN EMPLOYMENT.—For purposes of subsection (a)(19), if State law requires the individual to have made reasonable efforts to retain employment as a condition for receiving unemployment compensation, such requirement shall be met if the individual—

“(A) sought protection from, or assistance in responding to, domestic or sexual violence, including calling the police, obtaining services from a victim services organization (as defined in section 103 of the Victims’ Economic Security and Safety Act), or seeking legal, social work, medical, clerical, or other assistance;

“(B) sought safety, including refuge in a shelter or temporary or permanent relocation, whether or not the individual actually obtained such refuge or accomplished such relocation; or

“(C) reasonably believed that options such as taking a leave of absence, transferring jobs, or receiving an alternative work schedule would not be sufficient to guarantee the safety of the individual or the individual’s family.

“(3) ACTIVE SEARCH FOR EMPLOYMENT.—For purposes of subsection (a)(19), if State law requires the individual to actively search for employment after separation from employ-

ment as a condition for receiving unemployment compensation—

“(A) such requirement shall be treated as met where the individual registers for work (the individual is not otherwise required to seek employment on a weekly basis); and

“(B) such law may not categorize an employment opportunity as suitable work for the individual unless such employment opportunity reasonably accommodates the individual’s need to address the physical, psychological, legal, and other effects of domestic or sexual violence.

“(4) PROVISION OF INFORMATION TO MEET CERTAIN REQUIREMENTS.—

“(A) IN GENERAL.—In determining if an individual meets the requirements of paragraphs (1), (2), and (3), the unemployment agency of the State in which an individual is requesting unemployment compensation by reason of subsection (a)(19) may require the individual to provide certification that the separation from employment was due to circumstances resulting from the individual’s experience of domestic or sexual violence.

“(B) SATISFACTION OF CERTIFICATION REQUIREMENT.—An individual may satisfy the certification requirement of subparagraph (A) by providing to the unemployment agency—

“(i) a sworn statement of the individual;

“(ii) documentation from an employee, agent, or volunteer of a victim services organization (as defined in section 103 of the Victims’ Economic Security and Safety Act), an attorney, a member of the clergy, or a medical or other professional, from whom the individual has sought assistance in addressing domestic or sexual violence and the effects of that violence;

“(iii) a police or court record; or

“(iv) other corroborating evidence.

“(C) CONFIDENTIALITY.—All information provided to the unemployment agency pursuant to this paragraph, including a statement of an individual or any other documentation, record, or corroborating evidence, and the fact that an individual has applied for, inquired about, or obtained unemployment compensation available by reason of subsection (a)(19) shall be retained in the strictest confidence by the individual’s former or current employer and the unemployment agency, except to the extent that disclosure is—

“(i) requested or consented to by the individual; or

“(ii) otherwise required by applicable Federal or State law.”.

(b) UNEMPLOYMENT COMPENSATION PERSONNEL TRAINING.—Section 303(a) of the Social Security Act (42 U.S.C. 503(a)) is amended—

(1) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

“(4) Such methods of administration as will ensure that—

“(A) applicants for unemployment compensation and individuals inquiring about such compensation are adequately notified of the provisions of subsections (a)(19) and (g) of section 3304 of the Internal Revenue Code of 1986 (relating to the availability of unemployment compensation for victims of domestic or sexual violence); and

“(B) claims reviewers and hearing personnel are adequately trained in—

“(i) the nature and dynamics of domestic or sexual violence (as defined in section 3306(v) of the Internal Revenue Code of 1986); and

“(ii) methods of ascertaining and keeping confidential information about possible experiences of domestic or sexual violence (as so defined) to ensure that—

“(I) requests for unemployment compensation based on separations stemming from such violence are reliably screened, identified, and adjudicated; and

“(II) full confidentiality is provided for the individual’s claim and submitted evidence; and”.

(c) TANF PERSONNEL TRAINING.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended by adding at the end the following new paragraph:

“(8) CERTIFICATION THAT THE STATE WILL PROVIDE INFORMATION TO VICTIMS OF DOMESTIC AND SEXUAL VIOLENCE.—A certification by the chief officer of the State that the State has established and is enforcing standards and procedures to—

“(A) ensure that applicants for assistance under the program and individuals inquiring about such assistance are adequately notified of—

“(i) the provisions of subsections (a)(19) and (g) of section 3304 of the Internal Revenue Code of 1986 (relating to the availability of unemployment compensation for victims of domestic or sexual violence); and

“(ii) assistance made available by the State to victims of domestic or sexual violence;

“(B) ensure that case workers and other agency personnel responsible for administering the State program funded under this part are adequately trained in—

“(i) the nature and dynamics of domestic or sexual violence (as defined in section 3306(v) of the Internal Revenue Code of 1986);

“(ii) State standards and procedures relating to the prevention of, and assistance for individuals who experience, domestic or sexual violence (as so defined); and

“(iii) methods of ascertaining and keeping confidential information about possible experiences of domestic or sexual violence (as so defined);

“(C) if a State has elected to establish and enforce standards and procedures regarding the screening for and identification of domestic violence pursuant to paragraph (7), ensure that—

“(i) applicants for assistance under the program and individuals inquiring about such assistance are adequately notified of options available under such standards and procedures; and

“(ii) case workers and other agency personnel responsible for administering the State program funded under this part are provided with adequate training regarding such standards and procedures and options available under such standards and procedures; and

“(D) ensure that the training required under subparagraphs (B) and, if applicable, (C)(ii) is provided through a training program operated by an eligible entity (as defined in section 122(d)(2) of the Victims’ Economic Security and Safety Act).”.

(d) DOMESTIC AND SEXUAL VIOLENCE TRAINING GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) is authorized to award—

(A) a grant to a national victim services organization in order for such organization to—

(i) develop and disseminate a model training program (and related materials) for the training required under section 303(a)(4)(B) of the Social Security Act (42 U.S.C. 503(a)(4)(B)), as added by subsection (b), and under subparagraphs (B) and, if applicable, (C)(ii) of section 402(a)(8) of the such Act (42 U.S.C. 602(a)(8)), as added by subsection (c); and

(ii) provide technical assistance with respect to such model training program; and

(B) grants to State, tribal, or local agencies in order for such agencies to contract with eligible entities to provide State, tribal, or local case workers and other State, tribal, or local agency personnel responsible for administering the temporary assistance to needy families program established under part A of title IV of the Social Security Act in a State or Indian reservation with the training required under subparagraphs (B) and, if applicable, (C)(ii) of such section 402(a)(8).

(2) ELIGIBLE ENTITY DEFINED.—For purposes of paragraph (1)(B), the term “eligible entity” means an entity—

(A) that is—

(i) a State or tribal domestic violence coalition or sexual assault coalition;

(ii) a State or local victim services organization with recognized expertise in the dynamics of domestic or sexual violence whose primary mission is to provide services to victims of domestic or sexual violence, such as a rape crisis center or domestic violence program; or

(iii) an organization with demonstrated expertise in State or county welfare laws and implementation of such laws and experience with disseminating information on such laws and implementation, but only if such organization will provide the required training in partnership with an entity described in clause (i) or (ii); and

(B) that—

(i) has demonstrated expertise in both domestic and sexual assault, such as a joint domestic violence and sexual assault coalition; or

(ii) will provide the required training in partnership with an entity described in clause (i) or (ii) of subparagraph (A) in order to comply with the dual domestic violence and sexual assault expertise requirement under clause (i).

(3) APPLICATION.—An entity seeking a grant under this subsection shall submit an application to the Secretary at such time, in such form and manner, and containing such information as the Secretary specifies.

(4) REPORTS.—

(A) REPORTS TO CONGRESS.—The Secretary shall annually submit a report to Congress on the grant program established under this subsection.

(B) REPORTS AVAILABLE TO PUBLIC.—The Secretary shall establish procedures for the dissemination to the public of each report submitted under subparagraph (A). Such procedures shall include the use of the Internet to disseminate such reports.

(5) AUTHORIZATION OF APPROPRIATIONS.—

(A) AUTHORIZATION.—There are authorized to be appropriated—

(i) \$1,000,000 for fiscal year 2004 to carry out the provisions of paragraph (1)(A); and

(ii) \$12,000,000 for each of fiscal years 2004 through 2006 to carry out the provisions of paragraph (1)(B).

(B) THREE-YEAR AVAILABILITY OF GRANT FUNDS.—Each recipient of a grant under this subsection shall return to the Secretary of Health and Human Services any unused portion of such grant not later than 3 years after the date the grant was awarded, together with any earnings on such unused portion.

(C) AMOUNTS RETURNED.—Any amounts returned pursuant to subparagraph (B) shall be available without further appropriation to the Secretary of Health and Human Services for the purpose of carrying out the provisions of paragraph (1)(B).

(e) DEFINITION OF DOMESTIC OR SEXUAL VIOLENCE.—Section 3306 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following:

“(v) DOMESTIC OR SEXUAL VIOLENCE.—For purposes of this chapter, the term ‘domestic

or sexual violence’ means domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in section 103 of the Victims’ Economic Security and Safety Act.”.

(f) EFFECTIVE DATE.—

(1) UNEMPLOYMENT AMENDMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (2), the amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after the expiration of 180 days from the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—

(i) IN GENERAL.—If the Secretary of Labor identifies a State as requiring a change to its statutes or regulations in order to comply with the amendments made by this section (excluding the amendment made by subsection (c)), such amendments shall apply in the case of compensation paid for weeks beginning after the earlier of—

(I) the date the State changes its statutes or regulations in order to comply with such amendments; or

(II) the end of the first session of the State legislature which begins after the date of enactment of this Act or which began prior to such date and remained in session for at least 25 calendar days after such date;

except that in no case shall such amendments apply before the date that is 180 days after the date of enactment of this Act.

(ii) SESSION DEFINED.—In this subparagraph, the term “session” means a regular, special, budget, or other session of a State legislature.

(2) TANF AMENDMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (c) shall take effect on the date of enactment of this Act.

(B) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under part A of title IV of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendment made by subsection (c), the State plan shall not be regarded as failing to comply with the requirements of such amendment on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

Subtitle C—Victims’ Employment Sustainability

SEC. 131. SHORT TITLE.

This subtitle may be cited as the “Victims’ Employment Sustainability Act”.

SEC. 132. PURPOSES.

The purposes of this subtitle are, pursuant to the affirmative power of Congress to enact legislation under the portions of section 8 of article I of the Constitution relating to providing for the general welfare and to regulation of commerce among the several States, and under section 5 of the 14th amendment to the Constitution—

(1) to promote the national interest in reducing domestic violence, dating violence, sexual assault, and stalking by enabling victims of domestic or sexual violence to maintain the financial independence necessary to leave abusive situations, achieve safety, and minimize the physical and emotional injuries from domestic or sexual violence, and to

reduce the devastating economic consequences of domestic or sexual violence to employers and employees;

(2) to promote the national interest in ensuring that victims of domestic or sexual violence can recover from and cope with the effects of such violence, and participate in criminal and civil justice processes, without fear of adverse economic consequences from their employers;

(3) to ensure that victims of domestic or sexual violence can recover from and cope with the effects of such violence, and participate in criminal and civil justice processes, without fear of adverse economic consequences with respect to public benefits;

(4) to promote the purposes of the 14th amendment by addressing the failure of existing laws to protect the employment rights of victims of domestic or sexual violence, by protecting the civil and economic rights of victims of domestic or sexual violence, and by furthering the equal opportunity of women for economic self-sufficiency and employment free from discrimination;

(5) to minimize the negative impact on interstate commerce from dislocations of employees and harmful effects on productivity, employment, health care costs, and employer costs, caused by domestic or sexual violence, including intentional efforts to frustrate women’s ability to participate in employment and interstate commerce; and

(6) to accomplish the purposes described in paragraphs (1) through (5) by prohibiting employers from discriminating against actual or perceived victims of domestic or sexual violence, in a manner that accommodates the legitimate interests of employers and protects the safety of all persons in the workplace.

SEC. 133. PROHIBITED DISCRIMINATORY ACTS.

(a) IN GENERAL.—An employer shall not fail to hire, refuse to hire, discharge, or harass any individual, or otherwise discriminate against any individual with respect to the compensation, terms, conditions, or privileges of employment of the individual (including retaliation in any form or manner), and a public agency shall not deny, reduce, or terminate the benefits of, otherwise sanction, or harass any individual, or otherwise discriminate against any individual with respect to the amount, terms, or conditions of public assistance of the individual (including retaliation in any form or manner), because—

(1) the individual involved—

(A) is or is perceived to be a victim of domestic or sexual violence;

(B) attended, participated in, prepared for, or requested leave to attend, participate in, or prepare for, a criminal or civil court proceeding relating to an incident of domestic or sexual violence of which the individual, or the son or daughter or parent of the individual, was a victim; or

(C) requested an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, in response to actual or threatened domestic or sexual violence, regardless of whether the request was granted; or

(2) the workplace is disrupted or threatened by the action of a person whom the individual states has committed or threatened to commit domestic or sexual violence against the individual, or the individual’s son or daughter or parent.

(b) DEFINITIONS.—In this section:

(1) DISCRIMINATE.—The term “discriminate”, used with respect to the terms, conditions, or privileges of employment or with respect to the terms or conditions of public

assistance, includes not making a reasonable accommodation to the known limitations of an otherwise qualified individual—

(A) who is a victim of domestic or sexual violence;

(B) who is—

(i) an applicant or employee of the employer (including a public agency); or

(ii) an applicant for or recipient of public assistance from the public agency; and

(C) whose limitations resulted from circumstances relating to being a victim of domestic or sexual violence;

unless the employer or public agency can demonstrate that the accommodation would impose an undue hardship on the operation of the employer or public agency.

(2) **QUALIFIED INDIVIDUAL.**—The term “qualified individual” means—

(A) in the case of an applicant or employee described in paragraph (1)(B)(i), an individual who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires; or

(B) in the case of an applicant or recipient described in paragraph (1)(B)(ii), an individual who, with or without reasonable accommodation, can satisfy the essential requirements of the program providing the public assistance that the individual receives or desires.

(3) **REASONABLE ACCOMMODATION.**—The term “reasonable accommodation” may include an adjustment to a job structure, workplace facility, or work requirement, including a transfer, reassignment, or modified schedule, leave, a changed telephone number or seating assignment, installation of a lock, or implementation of a safety procedure, in response to actual or threatened domestic or sexual violence.

(4) **UNDUE HARDSHIP.**—

(A) **IN GENERAL.**—The term “undue hardship” means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) **FACTORS TO BE CONSIDERED.**—In determining whether a reasonable accommodation would impose an undue hardship on the operation of an employer or public agency, factors to be considered include—

(i) the nature and cost of the reasonable accommodation needed under this section;

(ii) the overall financial resources of the facility involved in the provision of the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources, or the impact otherwise of such accommodation on the operation of the facility;

(iii) the overall financial resources of the employer or public agency, the overall size of the business of an employer or public agency with respect to the number of employees of the employer or public agency, and the number, type, and location of the facilities of an employer or public agency; and

(iv) the type of operation of the employer or public agency, including the composition, structure, and functions of the workforce of the employer or public agency, the geographic separateness of the facility from the employer or public agency, and the administrative or fiscal relationship of the facility to the employer or public agency.

SEC. 134. ENFORCEMENT.

(a) **CIVIL ACTION BY INDIVIDUALS.**—

(1) **LIABILITY.**—Any employer or public agency that violates section 133 shall be liable to any individual affected for—

(A) damages equal to the amount of wages, salary, employment benefits, public assistance, or other compensation denied or lost to such individual by reason of the violation, and the interest on that amount calculated at the prevailing rate;

(B) compensatory damages, including damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment or life, and other nonpecuniary losses;

(C) such punitive damages, up to 3 times the amount of actual damages sustained, as the court described in paragraph (2) shall determine to be appropriate; and

(D) such equitable relief as may be appropriate, including employment, reinstatement, and promotion.

(2) **RIGHT OF ACTION.**—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer or public agency in any Federal or State court of competent jurisdiction by any 1 or more individuals described in section 133.

(b) **ACTION BY DEPARTMENT OF JUSTICE.**—The Attorney General may bring a civil action in any Federal or State court of competent jurisdiction to recover the damages or equitable relief described in subsection (a)(1).

SEC. 135. ATTORNEY'S FEES.

Section 722(b) of the Revised Statutes (42 U.S.C. 1988(b)) is amended by inserting “the Victims’ Employment Sustainability Act,” after “title VI of the Civil Rights Act of 1964.”

Subtitle D—Victims of Abuse Insurance Protection

SEC. 141. SHORT TITLE.

This subtitle may be cited as the “Victims of Abuse Insurance Protection Act”.

SEC. 142. DEFINITIONS.

In this subtitle:

(1) **ABUSE.**—The term “abuse” means the occurrence of 1 or more of the following acts by a current or former household or family member, intimate partner, or caretaker:

(A) Attempting to cause or causing another person bodily injury, physical harm, substantial emotional distress, psychological trauma, rape, sexual assault, or involuntary sexual intercourse.

(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority and under circumstances that place the person in reasonable fear of bodily injury or physical harm.

(C) Subjecting another person to false imprisonment or kidnapping.

(D) Attempting to cause or causing damage to property so as to intimidate or attempt to control the behavior of another person.

(2) **HEALTH CARRIER.**—The term “health carrier” means a person that contracts or offers to contract on a risk-assuming basis to provide, deliver, arrange for, pay for, or reimburse any of the cost of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health services.

(3) **INSURED.**—The term “insured” means a party named on a policy, certificate, or health benefit plan, including an individual, corporation, partnership, association, unincorporated organization, or any similar entity, as the person with legal rights to the benefits provided by the policy, certificate, or health benefit plan. For group insurance, such term includes a person who is a beneficiary covered by a group policy, certificate, or health benefit plan. For life insurance, the term refers to the person whose life is covered under an insurance policy.

(4) **INSURER.**—The term “insurer” means any person, reciprocal exchange, inter insurer, Lloyds insurer, fraternal benefit society, or other legal entity engaged in the business of insurance, including agents, brokers, adjusters, and third-party administra-

tors. The term also includes health carriers, health benefit plans, and life, disability, and property and casualty insurers.

(5) **POLICY.**—The term “policy” means a contract of insurance, certificate, indemnity, suretyship, or annuity issued, proposed for issuance or intended for issuance by an insurer, including endorsements or riders to an insurance policy or contract.

(6) **SUBJECT OF ABUSE.**—The term “subject of abuse” means—

(A) a person against whom an act of abuse has been directed;

(B) a person who has prior or current injuries, illnesses, or disorders that resulted from abuse; or

(C) a person who seeks, may have sought, or had reason to seek medical or psychological treatment for abuse, protection, court-ordered protection, or shelter from abuse.

SEC. 143. DISCRIMINATORY ACTS PROHIBITED.

(a) **IN GENERAL.**—No insurer may, directly or indirectly, engage in any of the following acts or practices on the basis that the applicant or insured, or any person employed by the applicant or insured or with whom the applicant or insured is known to have a relationship or association, is, has been, or may be the subject of abuse or has incurred or may incur abuse-related claims:

(1) Denying, refusing to issue, renew or reissue, or canceling or otherwise terminating an insurance policy or health benefit plan.

(2) Restricting, excluding, or limiting insurance coverage for losses or denying a claim, except as otherwise permitted or required by State laws relating to life insurance beneficiaries.

(3) Adding a premium differential to any insurance policy or health benefit plan.

(b) **PROHIBITION ON LIMITATION OF CLAIMS.**—No insurer may, directly or indirectly, deny or limit payment of a claim incurred by an innocent insured as a result of abuse.

(c) **PROHIBITION ON TERMINATION.**—

(1) **IN GENERAL.**—No insurer or health carrier may terminate health coverage for a subject of abuse because coverage was originally issued in the name of the abuser and the abuser has divorced, separated from, or lost custody of the subject of abuse or the abuser’s coverage has terminated voluntarily or involuntarily and the subject of abuse does not qualify for an extension of coverage under part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or section 4980B of the Internal Revenue Code of 1986.

(2) **PAYMENT OF PREMIUMS.**—Nothing in paragraph (1) shall be construed to prohibit the insurer from requiring that the subject of abuse pay the full premium for the subject’s coverage under the health plan if the requirements are applied to all insured of the health carrier.

(3) **EXCEPTION.**—An insurer may terminate group coverage to which this subsection applies after the continuation coverage period required by this subsection has been in force for 18 months if it offers conversion to an equivalent individual plan.

(4) **CONTINUATION COVERAGE.**—The continuation of health coverage required by this subsection shall be satisfied by any extension of coverage under part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or section 4980B of the Internal Revenue Code of 1986 provided to a subject of abuse and is not intended to be in addition to any extension of coverage otherwise provided for under such part 6 or section 4980B.

(d) **USE OF INFORMATION.**—

(1) **LIMITATION.**—

(A) **IN GENERAL.**—In order to protect the safety and privacy of subjects of abuse, no

person employed by or contracting with an insurer or health benefit plan may—

(i) use, disclose, or transfer information relating to abuse status, acts of abuse, abuse-related medical conditions or the applicant's or insured's status as a family member, employer, associate, or person in a relationship with a subject of abuse for any purpose unrelated to the direct provision of health care services unless such use, disclosure, or transfer is required by an order of an entity with authority to regulate insurance or an order of a court of competent jurisdiction; or

(ii) disclose or transfer information relating to an applicant's or insured's mailing address or telephone number or the mailing address and telephone number of a shelter for subjects of abuse, unless such disclosure or transfer—

(I) is required in order to provide insurance coverage; and

(II) does not have the potential to endanger the safety of a subject of abuse.

(B) **RULE OF CONSTRUCTION.**—Nothing in this paragraph may be construed to limit or preclude a subject of abuse from obtaining the subject's own insurance records from an insurer.

(2) **AUTHORITY OF SUBJECT OF ABUSE.**—A subject of abuse, at the absolute discretion of the subject of abuse, may provide evidence of abuse to an insurer for the limited purpose of facilitating treatment of an abuse-related condition or demonstrating that a condition is abuse-related. Nothing in this paragraph shall be construed as authorizing an insurer or health carrier to disregard such provided evidence.

SEC. 144. INSURANCE PROTOCOLS FOR SUBJECTS OF ABUSE.

Insurers shall develop and adhere to written policies specifying procedures to be followed by employees, contractors, producers, agents, and brokers for the purpose of protecting the safety and privacy of a subject of abuse and otherwise implementing this subtitle when taking an application, investigating a claim, or taking any other action relating to a policy or claim involving a subject of abuse.

SEC. 145. REASONS FOR ADVERSE ACTIONS.

An insurer that takes an action that adversely affects a subject of abuse, shall advise the subject of abuse applicant or insured of the specific reasons for the action in writing. For purposes of this section, reference to general underwriting practices or guidelines shall not constitute a specific reason.

SEC. 146. LIFE INSURANCE.

Nothing in this subtitle shall be construed to prohibit a life insurer from declining to issue a life insurance policy if the applicant or prospective owner of the policy is or would be designated as a beneficiary of the policy, and if—

(1) the applicant or prospective owner of the policy lacks an insurable interest in the insured; or

(2) the applicant or prospective owner of the policy is known, on the basis of police or court records, to have committed an act of abuse against the proposed insured.

SEC. 147. SUBROGATION WITHOUT CONSENT PROHIBITED.

Subrogation of claims resulting from abuse is prohibited without the informed consent of the subject of abuse.

SEC. 148. ENFORCEMENT.

(a) **FEDERAL TRADE COMMISSION.**—

(1) **IN GENERAL.**—The Federal Trade Commission shall have the power to examine and investigate any insurer to determine whether such insurer has been or is engaged in any act or practice prohibited by this subtitle.

(2) **CEASE AND DESIST ORDERS.**—If the Federal Trade Commission determines an insurer has been or is engaged in any act or

practice prohibited by this subtitle, the Commission may take action against such insurer by the issuance of a cease and desist order as if the insurer was in violation of section 5 of the Federal Trade Commission Act. Such cease and desist order may include any individual relief warranted under the circumstances, including temporary, preliminary, and permanent injunctive and compensatory relief.

(b) **PRIVATE CAUSE OF ACTION.**—

(1) **IN GENERAL.**—An applicant or insured who believes that the applicant or insured has been adversely affected by an act or practice of an insurer in violation of this subtitle may maintain an action against the insurer in a Federal or State court of original jurisdiction.

(2) **RELIEF.**—Upon proof of such conduct by a preponderance of the evidence in an action described in paragraph (1), the court may award appropriate relief, including temporary, preliminary, and permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for the aggrieved individual's attorneys and expert witnesses.

(3) **STATUTORY DAMAGES.**—With respect to compensatory damages in an action described in paragraph (1), the aggrieved individual may elect, at any time prior to the rendering of final judgment, to recover in lieu of actual damages, an award of statutory damages in the amount of \$5,000 for each violation.

SEC. 149. EFFECTIVE DATE.

This subtitle shall apply with respect to any action taken on or after the date of enactment of this Act.

Subtitle E—Workplace Safety Program Tax Credit

SEC. 151. CREDIT FOR COSTS TO EMPLOYERS OF IMPLEMENTING WORKPLACE SAFETY PROGRAMS.

(a) **IN GENERAL.**—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following:

“SEC. 45G. WORKPLACE SAFETY PROGRAM CREDIT.

“(a) **IN GENERAL.**—For purposes of section 38, the workplace safety program credit determined under this section for the taxable year is, for any employer, an amount equal to 40 percent of the domestic and sexual violence safety and education costs paid or incurred by such employer during the taxable year.

“(b) **DEFINITIONS.**—For purposes of this section—

“(1) **DOMESTIC AND SEXUAL VIOLENCE SAFETY AND EDUCATION COST.**—

“(A) **IN GENERAL.**—The term ‘domestic and sexual violence safety and education cost’ means any cost certified by the Secretary of Labor to the Secretary as being for the purpose of—

“(i) ensuring the safety of employees from domestic or sexual violence,

“(ii) providing assistance to employees and the spouses and dependents of employees with respect to domestic or sexual violence,

“(iii) providing legal or medical services to employees and the spouses and dependents of employees subjected to, or at risk from, domestic or sexual violence,

“(iv) educating employees about the issue of domestic or sexual violence, or

“(v) implementing human resource or personnel policies initiated to protect employees from domestic or sexual violence or to support employees who have been victims of domestic or sexual violence.

“(B) **TYPES OF COSTS.**—Such term includes costs certified by the Secretary of Labor to the Secretary as being for the purpose of—

“(i) the hiring of new security personnel in order to address domestic or sexual violence,

“(ii) the creation of buddy systems or escort systems for walking employees to parking lots, parked cars, subway stations, or bus stops, in order to address domestic or sexual violence,

“(iii) the purchase or installation of new security equipment, including surveillance equipment, lighting fixtures, cardkey access systems, and identification systems, in order to address domestic or sexual violence,

“(iv) the establishment of an employee assistance line or other employee assistance services, in order to address domestic or sexual violence, for the use of individual employees, including counseling or referral services undertaken in consultation and coordination with national, State, or local domestic violence coalitions, sexual assault coalitions, domestic violence programs, or sexual assault programs,

“(v) the retention of an attorney to provide legal services to employees seeking restraining orders or other legal recourse from domestic or sexual violence,

“(vi) the establishment of medical services addressing the medical needs of employees who are victims of domestic or sexual violence,

“(vii) the retention of a financial expert or an accountant to provide financial counseling to employees seeking to escape from domestic or sexual violence,

“(viii) the establishment of an education program for employees, consisting of seminars or training sessions about domestic or sexual violence undertaken in consultation and coordination with national, State, or local domestic violence coalitions, sexual assault coalitions, domestic violence programs, or sexual assault programs,

“(ix) studies of the cost, impact, or extent of domestic or sexual violence at the employer's place of business, if such studies are made available to the public and protect the identity of employees included in the study,

“(x) the publication of a regularly disseminated newsletter or other regularly disseminated educational materials about domestic or sexual violence,

“(xi) the implementation of leave policies for the purpose of allowing or accommodating the needs of victims of domestic or sexual violence to pursue counseling, legal assistance, or safety planning, including leave from work to attend meetings with attorneys, to give evidentiary statements or depositions, and to attend hearings or trials in court,

“(xii) the implementation of flexible work policies for the purpose of allowing or accommodating the needs of employees who are victims of domestic or sexual violence, or employees at risk with respect to such crimes, to avoid assailants,

“(xiii) the implementation of transfer policies for the purpose of allowing or accommodating the needs of employees subjected to domestic or sexual violence to change office locations within the company in order to avoid assailants or to allow the transfer of an employee who has perpetrated domestic or sexual violence in order to protect the victim, including payment of costs for the transfer and relocation of an employee to another city, county, State, or country for the purpose of maintaining an employee's safety from domestic or sexual violence, or

“(xiv) the provision of any of the services described in clauses (iv) through (viii) to the spouses or dependents of employees.

“(C) **NOTIFICATION OF POSSIBLE TAX CONSEQUENCES.**—In no event shall any cost for goods or services which may be included in the income of any employee receiving or benefiting from such goods or services be treated as a domestic and sexual violence

safety and education cost unless the employer notifies the employee in writing of the possibility of such inclusion.

“(2) DOMESTIC OR SEXUAL VIOLENCE.—The term ‘domestic or sexual violence’ means domestic violence, dating violence, sexual assault, or stalking, as those terms are defined in section 103 of the Victims’ Economic Security and Safety Act.

“(3) DOMESTIC VIOLENCE COALITION; SEXUAL ASSAULT COALITION.—The terms ‘domestic violence coalition’ and ‘sexual assault coalition’ have the meanings given the terms in section 103 of the Victims’ Economic Security and Safety Act.

“(4) EMPLOYEE.—The term ‘employee’ means a person who is an employee, as defined in section 103(9) of the Victims’ Economic Security and Safety Act, except that the person may be employed by any employer described in paragraph (5).

“(5) EMPLOYER.—The term ‘employer’ means a person who is an employer, as defined in section 103(10) of such Act, determined without regard to the number of individuals employed.

“(c) COORDINATION WITH OTHER PROVISIONS.—No credit or deduction shall be allowed under any other provision of this title for any amount for which a credit is allowed under this section.”.

(b) TREATMENT AS GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 of the Internal Revenue Code of 1986 (relating to general business credit) is amended by striking “plus” at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting “, plus”, and by adding at the end the following:

“(16) the workplace safety program credit determined under section 45G.”.

(2) TRANSITIONAL RULE FOR CARRYBACKS.—Subsection (d) of section 39 of such Code (relating to transitional rules) is amended by adding at the end the following:

“(11) NO CARRYBACK OF SECTION 45G CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the workplace safety program credit determined under section 45G may be carried back to a taxable year beginning before January 1, 2004.”.

(3) DEDUCTION FOR UNUSED CREDITS.—Subsection (c) of section 196 of such Code (relating to deduction for certain unused business credits) is amended by striking “and” at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting “, and”, and by adding at the end the following:

“(11) the workplace safety program credit determined under section 45G.”.

(c) CREDIT NOT A DEFENSE IN LEGAL ACTIONS.—The allowance of a credit under section 45G of the Internal Revenue Code of 1986 (as added by this section) shall not absolve employers of their responsibilities under any other law and shall not be construed as a defense to any legal action (other than legal action by the Secretary of the Treasury under such Code).

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“Sec. 45G. Workplace safety program credit.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

Subtitle F—National Clearinghouse on Domestic and Sexual Violence in the Workplace Grant

SEC. 161. NATIONAL CLEARINGHOUSE ON DOMESTIC AND SEXUAL VIOLENCE IN THE WORKPLACE GRANT.

(a) AUTHORITY.—The Attorney General may award a grant in accordance with this section to a private, nonprofit entity or tribal organization that meets the requirements of subsection (b), in order to provide for the establishment and operation of a national clearinghouse and resource center to provide information and assistance to employers, labor organizations, and advocates on behalf of victims of domestic or sexual violence, in their efforts to develop and implement appropriate responses to assist those victims.

(b) GRANTEES.—Each applicant for a grant under this section shall submit to the Attorney General an application, which shall—

(1) demonstrate that the applicant—
(A) has a nationally recognized expertise in the area of domestic violence, dating violence, sexual assault, and stalking, and a record of commitment and quality responses to reduce domestic violence, dating violence, sexual assault, and stalking; and

(B) will provide matching funds from non-Federal sources in an amount equal to not less than 10 percent of the total amount of the grant awarded under this section; and

(2) include a plan to maximize, to the extent practicable, outreach to employers (including private companies, as well as public entities such as universities, and State and local governments) in developing and implementing appropriate responses to assist employees who are victims of domestic or sexual violence.

(c) USE OF GRANT AMOUNT.—A grant under this section may be used for staff salaries, travel expenses, equipment, printing, and other reasonable expenses necessary to assemble, maintain, and disseminate to employers, labor organizations, and advocates described in subsection (a), information on and appropriate responses to domestic violence, dating violence, sexual assault, and stalking, including—

(1) training to promote a better understanding of appropriate assistance to employee victims;

(2) conferences and other educational opportunities;

(3) development of protocols and model workplace policies;

(4) employer- and union-sponsored victim services and outreach counseling; and

(5) assessments of the workplace costs of domestic violence, dating violence, sexual assault, and stalking.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$500,000 for each of fiscal years 2004 through 2008.

Subtitle G—Severability

SEC. 171. SEVERABILITY.

If any provision of this title, any amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of the provisions of this title, the amendments made by this title, and the application of such provisions or amendments to any person or circumstance shall not be affected.

TITLE II—CHILDREN WHO WITNESS DOMESTIC VIOLENCE

SEC. 201. SHORT TITLE.

This title may be cited as the “Children Who Witness Domestic Violence Act”.

SEC. 202. FINDINGS.

Congress makes the following findings:

(1) Domestic violence and sexual assault occur frequently in the United States.

1,500,000 women are raped or physically assaulted by an intimate partner annually in the United States, and 1 in 4 women in the United States will experience domestic violence or sexual assault in her lifetime.

(2) At least 3,300,000 children in the United States are exposed to parental violence every year.

(3) Child abuse and domestic violence often occur within the same families. Because of this overlap, cross-training for child welfare workers, courts, law enforcement, prosecutors, and domestic violence and sexual assault victim service providers is essential.

(4) Forty to 60 percent of men who abuse women also abuse children.

(5) In 43 percent of households where intimate violence occurs, at least 1 child under the age of 12 lives in the home. Domestic violence has been shown to occur disproportionately in homes with children under age 5.

(6) In most States, more than 50 percent of the residents in battered women’s shelters are children.

(7) As many as 500,000 children may be encountered by police during domestic violence arrests each year.

(8) Children who live in homes where domestic violence occurs are at a higher risk of anxiety and depression, and exhibit more aggressive, antisocial, inhibited, and fearful behaviors than other children.

(9) Children’s experiences vary widely as the result of their exposure to domestic violence depending on their family situations, community environment, and the child’s own personality. Children need comprehensive services that serve the continuum of their individual needs.

(10) Adolescents who have grown up in violent homes are at risk for recreating the abusive relationships they have observed. Forty percent of violent juvenile offenders come from homes where there is domestic violence, and 50 percent of children who come before delinquency court have been exposed to violence in the home.

(11) Men who as children witnessed their parent’s domestic violence are twice as likely to abuse their own wives as are sons of nonviolent parents. One-third of women who are physically abused by a husband or boyfriend grew up in a household where their mother was also abused.

(12) The most successful strategies for dealing with the overlap between domestic violence and child abuse are those that provide for the safety of both the children and the nonabusing parent.

(13) Recent studies show that battered women parent effectively and attend to their children’s needs.

(14) In a major metropolitan area, 80 percent of surveyed battered women with children reported that they and their children were safe and together as a family after receiving domestic violence advocacy services. In contrast, the rate of substantiated cases of sexual abuse in foster care is more than 4 times higher than the rate in the general population.

SEC. 203. PURPOSE.

The purpose of this title is to—

(1) reduce the impact of domestic violence, sexual assault, and stalking in the lives of youth and children;

(2) provide appropriate services for children and youth experiencing or exposed to domestic violence, sexual assault, and stalking;

(3) develop and implement education programs to prevent children and youth from becoming victims or perpetrators of domestic violence, sexual assault, or stalking;

(4) encourage cross training and collaboration among child welfare agencies, domestic violence and sexual assault service providers, courts, law enforcement entities,

health care professionals, crisis nurseries, and other social services to recognize and responsibly address domestic violence and sexual assault and the effects of domestic violence on children and youth;

(5) promote the safety of children and youth by increasing the safety, autonomy, capacity, and financial security of the non-abusing parents who are also victims of domestic violence and sexual assault so that they may remain safely together, thereby preventing the unnecessary and harmful removal of the child or youth from the non-abusing parent; and

(6) ensure the effective handling of cases where domestic violence or sexual assault and child abuse and neglect intersect in such a way that—

(A) holds the adult perpetrator of violence accountable;

(B) assures the safety and well-being of both the child and the child's nonabusing parent; and

(C) prevents the unnecessary and harmful removal of the child from the nonabusing parent thereby increasing the child's chance to heal.

SEC. 204. DEFINITIONS.

Section 320 of the Family Violence Prevention and Services Act (42 U.S.C. 10408) is amended by adding at the end the following:

“(7) The term ‘dating violence’ means violence committed by a person—

“(A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and

“(B) where the existence of such a relationship shall be determined based on a consideration of—

“(i) the length of the relationship;

“(ii) the type of relationship; and

“(iii) the frequency of interaction between the persons involved in the relationship.

“(8) The term ‘domestic violence’ includes acts or threats of violence, not including acts of self-defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim, by a person who is or has been in a continuing social relationship of a romantic or intimate nature with the victim, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

“(9) The term ‘sexual assault’ means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison and includes both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known to the victim or related by blood or marriage to the victim.

“(10) The term ‘stalking’ means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear death, sexual assault, or bodily injury to such person or a member of such person's immediate family, when the person engaging in such conduct has knowledge or should have knowledge that the specific person will be placed in reasonable fear of death, sexual assault, or bodily injury to such person or a member of such person's immediate family and when the conduct induces fear in the specific person of death, sexual assault, or bodily injury to such person or a member of such person's immediate family.”.

SEC. 205. SERVICES FOR CHILDREN EXPOSED TO DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.) is amended by adding at the end the following:

“SEC. 321. SERVICES FOR CHILDREN EXPOSED TO DOMESTIC VIOLENCE.

“(a) GRANTS AUTHORIZED.—The Secretary may award competitive grants to eligible entities to enable such entities to conduct programs to serve children who have been exposed to domestic violence.

“(b) ELIGIBLE GRANTEEES.—To be eligible to receive a grant under this section, an entity shall—

“(1) meet the requirements of section 303(a)(2)(A) or section 303(b)(1); and

“(2) have in place, and describe in its application, policies and procedures that—

“(A) enhance or ensure the safety and security of a battered parent or caregiver, and as a result, the child of the parent; and

“(B) ensure that all services are provided in a developmentally appropriate and culturally competent manner.

“(c) USE OF FUNDS.—

“(1) IN GENERAL.—An entity that receives a grant under this section shall use amounts provided under the grant to design or replicate, and implement, programs and services using domestic violence intervention models to respond to the needs of children who are exposed to domestic violence and whose parent or caregiver is a victim of domestic violence and who is receiving services from such entity. Such a program—

“(A) shall be a new program or service, or new component of an existing program or service not currently offered by the entity;

“(B) shall provide direct counseling and advocacy for children who have been exposed to domestic violence;

“(C) may include early childhood and mental health services;

“(D) may assist in legal advocacy efforts on behalf of children with respect to issues related directly to services the children are receiving from the program;

“(E) may include respite care, supervised visitation, and specialized services for children; and

“(F) may use not more than 25 percent of the grant funds to contract with others to provide additional services and resources for children including child care, transportation, educational support, respite care, supervised visitation, and access to specialized services for children.

“(2) CONFIDENTIALITY.—Programs developed and implemented under paragraph (1) shall ensure the safety and confidentiality of child and adult victims in a manner that is consistent with applicable Federal and State laws.

“(d) APPLICATION.—To be eligible to receive a grant under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(e) TERM AND AMOUNT.—

“(1) TERM.—The Secretary shall make the grants under this section for a period of not more than 3 fiscal years.

“(2) AMOUNT.—Each grant awarded under this section shall be in an amount of not less than \$50,000 per year and not more than \$300,000 per year.

“(f) EVALUATION, MONITORING, ADMINISTRATION, AND TECHNICAL ASSISTANCE.—Of the amount appropriated under subsection (j) for each fiscal year, not more than 4 percent shall be used by the Secretary for evaluation, monitoring, administrative, and technical assistance costs under this section.

“(g) EQUITABLE DISTRIBUTION.—In awarding grants under subsection (a), the Secretary shall ensure an equitable geographic dis-

tribution to State, local, and tribal programs working in throughout the United States in rural, urban, and suburban areas.

“(h) UNDERSERVED POPULATIONS.—In awarding grants under subsection (a), the Secretary shall—

“(1) consider the needs of underserved populations as defined by section 2003(7) of part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2); and

“(2) from the amounts made available under subsection (j), award not less than 10 percent of such amounts for the funding of tribal programs as defined in section 303(b)(1).

“(i) ANNUAL REPORTS.—An entity receiving a grant under this section shall annually submit to the Secretary a report that describes, at a minimum—

“(1) how the funds under the grant were used;

“(2) the extent to which underserved populations were reached;

“(3) the adequacy of staff training and agency services to ensure that children's needs are addressed properly;

“(4) the adequacy of the physical arrangements for meeting children's needs; and

“(5) the existence of continuing barriers the entity faces to more fully addressing children's needs.

“(j) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, \$15,000,000 for each of fiscal years 2004 through 2008.

“(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.”.

SEC. 206. GRANTS TO COMBAT THE IMPACT OF EXPERIENCING OR WITNESSING DOMESTIC VIOLENCE ON ELEMENTARY AND SECONDARY SCHOOL CHILDREN.

Subpart 2 of part A of title IV of the Elementary and Secondary Act of 1965 (20 U.S.C. 7131 et seq.) is amended by adding at the end the following:

“SEC. 4125. GRANTS TO COMBAT THE IMPACT OF EXPERIENCING OR WITNESSING DOMESTIC VIOLENCE ON ELEMENTARY AND SECONDARY SCHOOL CHILDREN.

“(a) GRANTS AUTHORIZED.—

“(1) AUTHORITY.—The Secretary is authorized to award grants and contracts to elementary schools and secondary schools that work with experts to enable the elementary schools and secondary schools—

“(A) to provide training to school administrators, faculty, and staff, with respect to issues concerning children experiencing domestic violence in dating relationships and witnessing domestic violence, and the impact of the violence described in this subparagraph on children;

“(B) to provide educational programming to students regarding domestic violence and the impact of experiencing or witnessing domestic violence on children;

“(C) to provide support services for students and school personnel for the purpose of developing and strengthening effective prevention and intervention strategies with respect to issues concerning children experiencing domestic violence in dating relationships and witnessing domestic violence, and the impact of the violence described in this subparagraph on children; and

“(D) to develop and implement school system policies regarding appropriate, safe responses identification and referral procedures for students who are experiencing or witnessing domestic violence.

“(2) AWARD BASIS.—The Secretary shall award grants and contracts under this section—

“(A) on a competitive basis; and

“(B) in a manner that ensures that such grants and contracts are equitably distributed throughout a State among elementary schools and secondary schools located in rural, urban, and suburban areas in the State.

“(3) **POLICY DISSEMINATION.**—The Secretary shall disseminate to elementary schools and secondary schools any Department of Education policy guidance regarding the prevention of domestic violence and the impact of experiencing or witnessing domestic violence on children.

“(b) **USES OF FUNDS.**—Funds provided under this section may be used for the following purposes:

“(1) To provide training for elementary school and secondary school administrators, faculty, and staff that addresses issues concerning elementary school and secondary school students who experience domestic violence in dating relationships or witness domestic violence, and the impact of such violence on the students.

“(2) To provide education programs for elementary school and secondary school students that are developmentally appropriate for the students’ grade levels and are designed to meet any unique cultural and language needs of the particular student populations.

“(3) To develop and implement elementary school and secondary school system policies regarding appropriate, safe responses identification and referral procedures for students who are experiencing or witnessing domestic violence.

“(4) To provide the necessary human resources to respond to the needs of elementary school and secondary school students and personnel who are faced with the issue of domestic violence, such as a resource person who is either on-site or on-call, and who is an expert.

“(5) To provide media center materials and educational materials to elementary schools and secondary schools that address issues concerning children who experience domestic violence in dating relationships and witness domestic violence, and the impact of the violence described in this paragraph on the children.

“(6) To conduct evaluations to assess the impact of programs and policies assisted under this section in order to enhance the development of the programs.

“(c) **CONFIDENTIALITY.**—Policies, programs, training materials, and evaluations developed and implemented under subsection (b) shall address issues of safety and confidentiality for the victim and the victim’s family in a manner consistent with applicable Federal and State laws.

“(d) **APPLICATION.**—

“(1) **IN GENERAL.**—To be eligible to be awarded a grant or contract under this section for any fiscal year, an elementary school or secondary school, in consultation with an expert, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

“(2) **CONTENTS.**—Each application submitted under paragraph (1) shall—

“(A) describe the need for funds provided under the grant or contract and the plan for implementation of any of the activities described in subsection (b);

“(B) describe how the experts shall work in consultation and collaboration with the elementary school or secondary school; and

“(C) provide measurable goals for and expected results from the use of the funds provided under the grant or contract.

SEC. 207. GRANTS FOR TRAINING AND COLLABORATION AMONG CHILD WELFARE AGENCIES, DOMESTIC VIOLENCE AND SEXUAL ASSAULT SERVICE PROVIDERS, THE COURTS AND LAW ENFORCEMENT AGENCIES.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 205, is further amended by adding at the end the following:

“SEC. 322. GRANTS FOR TRAINING AND COLLABORATION AMONG CHILD WELFARE AGENCIES, DOMESTIC VIOLENCE AND SEXUAL ASSAULT SERVICE PROVIDERS, THE COURTS, AND LAW ENFORCEMENT AGENCIES.

“(a) **PURPOSE.**—It is the purpose of this section to—

“(1) encourage cross training and collaboration between child welfare agencies and domestic violence and sexual assault service providers and, where applicable, the courts and law enforcement agencies to identify, assess, and respond appropriately to domestic violence or sexual assault in homes where children are present and may be exposed to the violence, to domestic violence or sexual assault in child protection cases, and to the needs of both child and adult victims of domestic violence and sexual assault;

“(2) establish and implement policies, procedures, and practices in child welfare agencies, domestic violence or sexual assault service programs and, where applicable, juvenile, family or other trial courts with jurisdiction over child maltreatment and domestic violence cases (referred to in this section as the ‘courts’), and law enforcement agencies that are consistent with the principles of—

“(A) protecting children;

“(B) increasing the safety and well-being of children, by—

“(i) tending to their immediate and longer term needs for treatment and support;

“(ii) increasing the safety of parents of children who are not the perpetrators of domestic violence and sexual assault (referred to in this section as the ‘nonabusing parent’);

“(iii) supporting the autonomy, capacity, and financial security of the nonabusing parents of children who are also the victims of domestic violence or sexual assault (referred to in this section as ‘adult victims’);

“(iv) protecting the safety, security and well being of the child by preventing the unnecessary removal of the child from the nonabusing parent; and

“(v) in cases where removal of the child is necessary to protect the child’s safety, taking the necessary steps to provide appropriate services to the child and the nonabusing parent to promote the safe and appropriately prompt reunification of the child with the nonabusing parent;

“(C) recognizing—

“(i) the relationship between child abuse and neglect, including child sexual abuse, and domestic violence and sexual assault in families;

“(ii) the impact of the perpetrator’s behavior on child and adult victims of domestic violence and sexual assault;

“(iii) the dangers posed to both child and adult victims of domestic violence and sexual assault;

“(iv) the physical, emotional, and developmental impact of domestic violence and sexual assault on child and adult victims;

“(v) the physical, emotional, and financial needs of adult victims of domestic violence and sexual assault; and

“(vi) the need to hold adult perpetrators of domestic violence and sexual assault accountable for their abusive behaviors to provide appropriate services to reduce risks to child and adult victims of domestic violence or sexual assault;

“(D) in the case of training for court personnel and law enforcement, holding adult perpetrators of domestic violence, sexual assault, and child abuse and neglect, not the child and adult victims of domestic violence, sexual assault, and child abuse and neglect, accountable for stopping abusive behaviors; and

“(3) increase cooperation and enhance linkages between child welfare agencies, domestic violence and sexual assault service providers, juvenile, family or other trial courts with jurisdiction over child maltreatment and domestic violence cases, and law enforcement agencies to protect and more comprehensively and effectively serve both child and adult victims of domestic violence and sexual assault, and to engage where necessary other entities addressing the safety, health, mental health, social service, housing and economic needs of child and adult victims of domestic violence and sexual assault, including community-based supports such as schools, local health centers, community action groups, and neighborhood coalitions.

“(b) **GRANT AUTHORITY.**—

“(1) **IN GENERAL.**—The Secretary shall make grants to eligible entities to enable the entities to jointly carry out cross training and other initiatives to promote collaboration that seeks to carry out the purposes of this section.

“(2) **GRANT PERIODS.**—Grants shall be awarded under paragraph (1) for a period of 3 years.

“(3) **ELIGIBLE ENTITIES.**—To be eligible to receive a grant under this section, a grant applicant shall establish a partnership that—

“(A) shall include—

“(i) a State child welfare agency, an Indian tribal organization that serves as a child welfare agency, or a local child welfare agency; and

“(ii) a domestic violence or sexual assault service provider, such as—

“(I) a State, local, or tribal domestic violence or sexual assault coalition; or

“(II) another private non-profit organization such as a community-based domestic violence or sexual assault program that is concerned with domestic violence or sexual assault and has a documented history of effective work concerning domestic violence or sexual assault and the impact domestic violence or sexual assault has on children; and

“(B) may include—

“(i) a State or local juvenile, family, or other trial court with jurisdiction over child maltreatment and domestic violence cases; or

“(ii) a State or local law enforcement agency with responsibility for responding to reports of domestic violence or sexual assault or child abuse and neglect.

“(c) **USES OF FUNDS.**—An entity that receives a grant under this section shall use the funds made available through the grant for cross-training and collaborative efforts, consistent with the principles described in subsection (a)(2), including—

“(1) to educate the staff of child welfare agencies and domestic violence and sexual assault service providers, and, as applicable, the staff of courts and law enforcement agencies to responsibly address domestic violence and sexual assault (recognizing it as a serious problem that threatens both its child and adult victims), and to understand—

“(A) domestic violence and sexual assault and their effects on children and adults;

“(B) child abuse and neglect and its effects on children; and

“(C) child welfare policies that affect child and adult victims of domestic violence and sexual assault;

“(2) to ensure the effective handling of cases where domestic violence or sexual assault and child abuse and neglect intersect so as to—

“(A) assure the safety and well-being of both the child and the nonabusing parent;

“(B) prevent the unnecessary removal of the child from the nonabusing parent, and, when removal is necessary to protect the child’s safety;

“(C) promote the delivery of appropriate services to the child and to the nonabusing parent; and

“(D) facilitate the safe and appropriately prompt reunification of the child with the nonabusing parent through the development and implementation of policies, procedures, and programs that are consistent with the purposes of this section;

“(3) to identify and assess, and respond appropriately to, domestic violence or sexual assault in child protection cases and the needs of child victims of abuse and neglect in domestic violence or sexual assault cases;

“(4) to ensure that child welfare agencies and domestic violence and sexual assault service providers will not be required to share confidential information with one another about families receiving services except as required by law or with the informed, written consent of the adult victim being served;

“(5) to provide appropriate resources in child abuse and neglect cases to respond to domestic violence and sexual assault, including developing a service plan and providing other appropriate services and interventions that ensure the safety of both the child and adult victims of the domestic violence and sexual assault;

“(6) to establish and enhance linkages and collaboration between child welfare agencies, domestic violence or sexual assault service providers and, where applicable, State or local juvenile, family, or other trial courts with jurisdiction over child maltreatment and domestic violence cases, law enforcement agencies, and other entities addressing the safety, health, mental health, social service, housing, and economic needs of child and adult victims of domestic violence and sexual assault, including community-based supports such as schools, local health centers, community action groups, and neighborhood coalitions to—

“(i) respond effectively and comprehensively to the varying needs of child and adult victims of domestic violence and sexual assault to prevent child and adult victims from having to turn to child welfare agencies for assistance;

“(ii) include linguistically and culturally appropriate services and linkages to existing services; and

“(iii) include at least the following services where appropriate:

“(I) Appropriate referrals to community-based domestic violence programs and sexual assault victim service providers with the capacities to support adult victims of domestic violence or sexual assault who are parents of children who have been abused or neglected or are at risk of being abused or neglected.

“(II) Emergency shelter and transitional housing for adult victims of domestic violence or sexual assault and their children.

“(III) Legal assistance and advocacy for victims of domestic violence or sexual assault including, when appropriate, assistance in obtaining and entering orders of protection.

“(IV) Support and training to assist parents to help their children cope with the impact of domestic violence or sexual assault.

“(V) Programs to help children who have been exposed to domestic violence or sexual assault.

“(VI) Intervention and treatment for adult perpetrators of domestic violence or sexual assault whose children are the subjects of child protection cases to promote the safety and well-being of the children, and appropriate coordination of such treatment with the juvenile, family, and criminal courts, and law enforcement agencies with which the perpetrators are involved.

“(VII) Health, mental health, and other necessary supportive services.

“(VIII) Assistance to obtain housing and necessary economic supports.

“(d) APPLICATION.—To be eligible to receive a grant under this section, the entities that are members of the applicant partnership described in subsection (b)(3), shall jointly submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall—

“(1) outline the specific training and other activities that will be undertaken under the grant to promote collaboration;

“(2) describe how the training and other activities described in subsection (c) will help achieve the purposes of this section;

“(3) identify the agencies and providers that will be responsible for carrying out the initiatives for which the entities seek the grant;

“(4) include documentation from child welfare agencies and domestic violence and sexual assault victims service providers, and where applicable, State or local juvenile, family, or other trial courts with jurisdiction over child maltreatment and domestic violence cases, and law enforcement agencies that have been involved in the development of the application;

“(5) describe the ongoing involvement of child welfare and domestic violence and sexual assault victims service providers (including a description of their roles as subcontractors, and documentation of appropriate compensation, if relevant) and, where applicable, courts and law enforcement agencies, in the development of the training policies, procedures, programs, and practices described in subsection (c)(1); and

“(6) provide assurances that activities described in subsection (c) will—

“(A) be provided to child welfare staff, including line staff, supervisors, and administrators, and be provided first to staff responsible for investigation, follow-up, screening, intake, assessment, and provision of services; and

“(B) be conducted jointly with child welfare agency staff, staff from community-based domestic violence programs and sexual assault crisis centers and where applicable, courts and law enforcement agencies;

“(C) comply with the principles described in subsection (a)(2); and

“(D) address—

“(i) the dynamics and lethality of domestic violence and sexual assault, the impact of domestic violence and sexual assault on children exposed to domestic violence and sexual assault, the impact of domestic violence and sexual assault on adult victims, and the relationship of domestic violence and sexual assault to child abuse and neglect;

“(ii) screening for domestic violence and sexual assault and assessing danger to the child and adult victims of domestic violence and sexual assault;

“(iii) applicable Federal, State, and local laws pertaining to child abuse and neglect and domestic violence and sexual assault;

“(iv) the safety needs of child and adult victims of child abuse and neglect or domestic violence, or sexual assault and appropriate interventions for the child and adult victims that protect their the safety, including appropriate services and treatment for children and the nonabusing parent to pre-

vent the unnecessary removal of children from the nonabusing parent, and to promote prompt reunification if removal becomes necessary of both types of victims and give appropriate consideration to preserving the safety of family members not responsible for the child abuse or neglect;

“(v) appropriate interventions for adult perpetrators of domestic violence to reduce the risk of further violence toward child and adult victims of domestic violence and sexual assault which emphasize perpetrator accountability;

“(vi) appropriate supervision of child welfare staff working with families in which there has been domestic violence and sexual assault, including supervision relating to issues involving the safety of the child and adult victims and of the staff;

“(vii) the confidentiality needs of the child and adult victims, consistent with laws requiring mandatory reporting of child abuse and neglect; and

“(viii) develop child protection case plans that recognize the need to protect the safety of the child and of the adult victim and to hold adult perpetrators, not victims, responsible for stopping domestic violence and sexual assault.

“(f) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to entities that have submitted applications in partnership with State or local juvenile, family, or other trial courts with jurisdiction over child maltreatment and domestic violence cases, and law enforcement agencies.

“(g) REPORTING, AND DISSEMINATION OF INFORMATION.—

“(1) REPORTS.—Each of the entities that are members of the applicant partnership described in subsection (b)(3), that receive a grant under this section shall jointly annually prepare and submit to the Secretary a report detailing the activities that the entities have undertaken under the grant and such additional information as the Secretary shall require. At a minimum, such report shall address the nature of the cross-training and other activities to promote collaboration among child welfare agencies, domestic violence or sexual assault service providers, and where applicable, State or local juvenile, family, or other trial courts with jurisdiction over child maltreatment and domestic violence cases and law enforcement agencies that were undertaken with such grants and examples of enhanced collaboration that has occurred to better protect both child and adult victims of child abuse and domestic violence or sexual assault.

“(2) DISSEMINATION OF INFORMATION.—Not later than 9 months after the end of the grant period under this section, the Secretary shall distribute to all State child welfare agencies, domestic violence or sexual assault victim service providers, and where applicable, State or local juvenile, family, or other trial courts with jurisdiction over child maltreatment and domestic violence cases, law enforcement agencies, and Congress summaries that contain information on—

“(A) the activities implemented by the recipients of the grants; and

“(B) related initiatives undertaken by the Secretary to promote attention by the staff of child welfare agencies, domestic violence or sexual assault service providers and where applicable, courts and law enforcement agencies to domestic violence and sexual assault and their impact on both child and adult victims.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$15,000,000 in each of fiscal years 2004 through 2006, and \$25,000,000 in each of fiscal years 2007 and 2008.”

SEC. 208. MULTISYSTEM INTERVENTIONS FOR CHILDREN WHO HAVE BEEN EXPOSED TO DOMESTIC VIOLENCE.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 206, is further amended by adding at the end the following:

“SEC. 323. MULTISYSTEM INTERVENTIONS FOR CHILDREN WHO HAVE BEEN EXPOSED TO DOMESTIC VIOLENCE.

“(a) **GRANTS AUTHORIZED.**—The Secretary may award grants to eligible entities to enable such entities to conduct programs to encourage the development and use of multisystem intervention models that respond to the needs of children who have been exposed to domestic violence.

“(b) **ELIGIBLE ENTITIES.**—To be eligible to receive a grant under this section, an entity shall—

“(1) be a nonprofit private organization;

“(2)(A) demonstrate recognized expertise in the area of domestic violence and the impact of domestic violence on children; or

“(B) have entered into a memorandum of understanding regarding the intervention program to be established under the grant and the role of the entity in the program with—

“(i) the appropriate State or tribal domestic violence coalition; and

“(ii) entities carrying out domestic violence programs that provide shelter or related assistance in the locality in which the intervention program will be operated and that have an understanding of its effects on children;

“(3)(A) demonstrate a recognized expertise in child mental health services; or

“(B) have entered into a memorandum of understanding regarding the intervention program to be established under the grant with providers that have expertise in child mental health to ensure that children of all ages have access to appropriate mental health services; and

“(4) demonstrate a history of providing advocacy, health care, mental health, or other crisis-related services to children.

“(c) **USE OF FUNDS.**—An entity that receives a grant under this section shall use amounts provided under the grant to design or replicate, and implement, multisystem intervention models to respond to the needs of children exposed to domestic violence. Such activities shall—

“(1)(A) involve collaborative partnerships with—

“(i) local entities carrying out domestic violence programs that provide shelter or related assistance or have expertise in the field of providing services to victims of domestic violence and an understanding of its effects on children; and

“(ii) other partners including courts, schools, social service providers, health care providers, police, early childhood agencies, entities carrying out Head Start programs under the Head Start Act (42 U.S.C. 9831 et seq.), or entities carrying out child protection, welfare, job training, housing, battered women’s service, or children’s mental health programs; and

“(B) be carried out to design and implement protocols and systems to identify, and appropriately respond to the needs of children who have been exposed to domestic violence and who participate in programs administered by the partners;

“(2) establish or implement guidelines to evaluate the needs of a child and make appropriate intervention recommendations;

“(3) include the development or replication of a mental health treatment model to meet the needs of children for whom such treatment has been identified as appropriate;

“(4) establish or implement institutionalized procedures to enhance or ensure the

safety and security of a battered parent, and as a result, the child of the parent;

“(5) provide direct counseling and advocacy for adult victims of domestic violence and their children who have been exposed to domestic violence;

“(6) establish or implement policies and protocols for maintaining the confidentiality of the battered parent and child;

“(7) provide community outreach and training to enhance the capacity of professionals who work with children to appropriately identify and respond to the needs of children who have been exposed to domestic violence;

“(8) establish procedures for documenting interventions used for each child and family;

“(9) establish plans to perform a systematic outcome evaluation to evaluate the effectiveness of the interventions;

“(10) ensure that all services are provided in a culturally competent manner; and

“(11) provide remuneration to local domestic violence services organizations who are asked to join collaborations.

“(d) **APPLICATION.**—To be eligible to receive a grant under this section, an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

“(e) **TERM AND AMOUNT.**—A grant awarded under this section shall be awarded for a term of 3 years and in an amount of not more than \$500,000 for each such year.

“(f) **TECHNICAL ASSISTANCE.**—Not later than 90 days after the date of enactment of this section, the Secretary shall identify successful programs that provide multisystem and mental health interventions to address the needs of children who have been exposed to domestic violence. Not later than 60 days before the Secretary solicits applications for grants under this section, the Secretary shall enter into an agreement with 1 or more entities carrying out the identified programs to provide technical assistance to applicants and recipients of such grants. The Secretary may use not more than 5 percent of the amount appropriated for a fiscal year under subsection (g) to provide such technical assistance.

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

“(1) **IN GENERAL.**—There is authorized to be appropriated to carry out this section, \$15,000,000 for each of fiscal years 2004 through 2008.

“(2) **AVAILABILITY.**—Amounts appropriated under paragraph (1) shall remain available until expended.”

SEC. 209. CRISIS NURSERY DEMONSTRATION GRANTS PROGRAM.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 208, is further amended by adding at the end the following:

“SEC. 324. CRISIS NURSERY DEMONSTRATION GRANT PROGRAMS.

“(a) **AUTHORITY TO ESTABLISH DEMONSTRATION GRANT PROGRAMS.**—The Secretary may establish demonstration programs under which grants are awarded to States to assist private nonprofit and public agencies and organizations in providing crisis nurseries for children who are abused and neglected, are at risk of abuse and neglect, are in families experiencing domestic violence, or are in families receiving child protective services.

“(b) **ASSURANCES FOR TRAINING IN DOMESTIC VIOLENCE.**—

“(1) **IN GENERAL.**—Private nonprofit and public agencies and organizations who receive funds under this section shall provide assurances to the Secretary that personnel working with children and families in crisis nurseries receive or have received training in domestic violence, the impact of domestic

violence on children, appropriate procedures for maintaining the safety and security of victims of domestic violence and their children, and appropriate procedures for maintaining the confidentiality of both child and adult victims of domestic violence utilizing the services of crisis nurseries.

“(2) **TRAINING REQUIREMENT.**—Training required under paragraph (1) shall be conducted in consultation with State, local, or tribal domestic violence coalitions or other private nonprofit organizations such as a community-based domestic violence program that has a documented history of serving both child and adult victims of domestic violence.

“(c) **COORDINATION.**—An applicant for a grant under this section shall demonstrate how activities funded under this section will be coordinated with other crisis nursery activities funded under section 201 of the Child Abuse Prevention and Treatment Act.

“(d) **REPORTING.**—A recipient of a grant under this section shall annually report on the crisis nursery activities funded under this grant. At a minimum, such a report shall describe—

“(1) the number of children and families served through crisis nursery activities established under the grant;

“(2) the nature and extent of the crisis nursery activities;

“(3) the percentage of children served by the crisis nursery activities established under the grant who are from families experiencing domestic violence;

“(4) the type of domestic violence training provided to crisis nursery staff and the nature and extent of training coordination with local domestic violence service providers;

“(5) the nature and extent of other Federal and State funding sources used to support the services of the crisis nursery;

“(6) the gaps between the service needs of the crisis nursery and the current capacity of crisis nurseries to serve children and families; and

“(7) outcome evaluation data on the effectiveness of crisis nursery activities, if available.

“(e) **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. 210. RESEARCH AND DATA COLLECTION ON THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN.

The Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.), as amended by section 209, is further amended by adding at the end the following:

“SEC. 325. RESEARCH AND DATA COLLECTION ON THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN.

“(a) **GRANTS.**—The Secretary may award competitive grants to eligible entities to enable such entities to conduct research and data collection activities concerning the impact of domestic violence on children.

“(b) **ELIGIBLE ENTITIES.**—To be eligible to receive a grant under this section, an entity shall be an institution of higher education or another nonprofit organization (such as a research entity, hospital, or mental health institution), with documented experience with research or data collection concerning the impact of domestic violence on children.

“(c) **USE OF FUNDS.**—An entity that receives a grant under this section shall use amounts provided under the grant to conduct new or expand current research or data collection—

“(1) on the prevalence of childhood exposure to domestic violence and the effects of the exposure in child and adult victims;

“(2) on the co-occurrence of domestic violence, and child abuse or neglect;

“(3) on linkages between children’s exposure to domestic violence and violent behavior in youth and adults;

“(4) that evaluates new or existing treatments aimed at children exposed to domestic violence;

“(5) on the prevalence of childhood exposure to domestic violence for Native American children;

“(6) on the effects and benefits of keeping children with their nonabusive parent and providing coordinated services to both;

“(7) on the role of children’s resilience and other factors that help mitigate the effects of exposure to domestic violence; and

“(8) on related matters, if the research or data collection directly addresses the impact of domestic violence on children.

“(d) TERM AND AMOUNT.—The Secretary shall award grants under this section for terms of 3 years and in amount of not more than \$500,000 for each such year.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$2,000,000 for each of fiscal years 2004 through 2006, and \$5,000,000 for each of fiscal years 2007 and 2008.”

TITLE III—DOMESTIC VIOLENCE SCREENING, TREATMENT, AND PREVENTION

SEC. 301. SHORT TITLE.

This title may be cited as the “Domestic Violence Screening, Treatment, and Prevention Act of 2003”.

SEC. 302. FINDINGS.

Congress makes the following findings:

(1) Nearly one-third of American women (31 percent) report being physically or sexually abused by a husband or boyfriend at some point in their lives, and about 1200 women are murdered every year by their intimate partner, nearly 3 each day.

(2) 85 percent of violent victimizations are experienced by women.

(3) 37 percent of all women who sought care in hospital emergency rooms for violence-related injuries were injured by a current or former spouse, boyfriend, or girlfriend.

(4) In addition to injuries sustained during violent episodes, physical and psychological abuse are linked to a number of adverse physical and mental health effects. Women who have been abused are much more likely to suffer from chronic pain, gastrointestinal disorders, diabetes, depression, unintended pregnancies, substance abuse and sexually transmitted infections, including HIV/AIDS.

(5) Medical services for abused women cost an estimated \$857,300,000 every year and health plans spend an average of \$1,775 more a year on abused women than on general enrollees.

(6) Each year, at least six percent of all pregnant women, about 240,000 pregnant women, in this country are battered by the men in their lives. This battering leads to complications of pregnancy, including low weight gain, anemia, infections, and first and second trimester bleeding.

(7) Pregnant and recently pregnant women are more likely to be victims of homicide than to die of any other cause, and evidence exists that a significant proportion of all female homicide victims are killed by their intimate partners.

(8) Children who witness domestic violence are more likely to exhibit behavioral and physical health problems including depression, anxiety, and violence towards peers. They are also more likely to attempt suicide, abuse drugs and alcohol, run away from home, engage in teenage prostitution, and commit sexual assault crimes.

(9) Fifty percent of men who frequently assault their wives frequently assault their children. The U.S. Advisory Board on Child Abuse and Neglect suggests that domestic violence may be the single major precursor to

child abuse and neglect fatalities in this country.

(10) Currently, about 10 percent of primary care physicians routinely screen for intimate partner abuse during new patient visits and nine percent routinely screen during periodic checkups.

(11) Recent clinical studies have proven the effectiveness of a 2-minute screening for early detection of abuse of pregnant women. Additional longitudinal studies have tested a 10-minute intervention that was proven highly effective in increasing the safety of pregnant abused women. Comparable research does not yet exist to support the effectiveness of screening men.

(12) 70 to 81 percent of the patients studied reported that they would like their healthcare providers to ask them privately about intimate partner violence.

Subtitle A—Research on Health and Family Violence

SEC. 311. HEALTH RESEARCH ON FAMILY VIOLENCE.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following part:

“PART R—HEALTH RESEARCH ON FAMILY VIOLENCE; HEALTH PROFESSIONALS EDUCATION

“SEC. 399AA. DEFINITION.

“In this part the term ‘family violence’ means any act or threatened act of violence, including any forceful detention of an individual, that—

“(1) results or threatens to result in physical injury and/or sexual assault; and

“(2) is committed by a person against another individual (including an elderly individual or a child)—

“(A) to whom such person is or was related by blood or marriage or is otherwise legally related;

“(B) with whom such person is or was lawfully residing; or

“(C) with whom such person is or has been in a social relationship of a romantic or intimate nature.

“SEC. 399AA-1. FAMILY VIOLENCE RESEARCH CENTERS.

“(a) ESTABLISHMENT.—The Secretary shall provide for the establishment of family violence research and education centers to conduct research and disseminate information, including professional and public education, concerning family violence.

“(b) LINKAGES.—In establishing centers under subsection (a), the Secretary shall ensure that at least—

“(1) one center is affiliated with the National Institutes of Health;

“(2) one center is affiliated with the Agency for Health Care Research and Quality; and

“(3) each center is linked to national, State, and local community resources, including domestic violence state coalitions and local shelter-based domestic violence programs, community health centers, health care delivery systems, and domestic and sexual assault hotlines, through which information may be distributed.

“(c) GENERAL DUTIES.—Each center established under subsection (a) may provide for the conduct of family violence research, including—

“(1) research concerning the prevalence and characteristics of different forms of family violence, including child abuse, domestic violence, and elder abuse;

“(2) research concerning the effects that family violence and childhood exposure to family violence have on health behaviors, health conditions and the health status of individuals, families, and populations, and the health care utilization and costs attributable to family violence;

“(3) research on effective interventions for adults and children exposed to family violence;

“(4) research concerning the development, implementation, evaluation, and dissemination of appropriate curricula for health professional training in the area of family violence;

“(5) research concerning the effectiveness of different educational methodologies that are used to present the curricula described in paragraph (4);

“(6) research concerning the effects of mandatory domestic violence reporting requirements, including the effects of such requirements on—

“(A) the prevalence and incidence of family violence;

“(B) victim and dependent safety and self-efficacy;

“(C) referral and treatment patterns; and

“(D) access to health care, legal, and advocacy services; and

“(7) research and testing of best messages and strategies to mobilize public action concerning the prevention of family violence.

“(d) GRANTS AND CONTRACTS.—

“(1) IN GENERAL.—In carrying out subsection (a), the Secretary may make grants to and enter into contracts with public and nonprofit private entities capable of conducting the research funded under this section.

“(2) APPLICATION FOR AWARD.—The Secretary may make an award of a grant or contract under paragraph (1) only if an application for the award is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purposes for which the award is to be made.

“(e) ADVISORY BOARD.—

“(1) IN GENERAL.—The Secretary shall establish an advisory board to make recommendations concerning the research agenda carried out by the research centers under this section.

“(2) COMPOSITION.—

“(A) APPOINTED MEMBERS.—The advisory board shall be composed of 19 members to be appointed by the Secretary as follows:

“(i) Twelve members shall be appointed from among individuals who are scientific or health care experts in the areas of elder abuse, domestic violence, child abuse, mental health, epidemiology, social work, or health education.

“(ii) Seven members shall be appointed from among nationally recognized experts in domestic violence, child abuse, and elder abuse who have a documented history of effective and respected work in their respective field, of which—

“(I) at least one member shall be an expert in domestic violence and dating violence;

“(II) at least one member shall be an expert in child abuse;

“(III) at least one member shall be an expert in elder abuse;

“(IV) at least one member shall be an expert in the impact of family violence on children and youth; and

“(V) at least one member shall be an expert in domestic violence against older or disabled women.

“(B) EX OFFICIO MEMBERS.—The following shall be ex-officio members of the advisory board:

“(i) The Assistant Secretary for Health.

“(ii) The Director of the National Institutes of Health.

“(iii) The Director of the Centers for Disease Control and Prevention.

“(iv) The Assistant Secretary for Children and Families.

“(v) The Assistant Secretary for Aging.

“(vi) The Administrator of the Health Resources and Services Administration.

“(vii) The Assistant Attorney General for the Office of Justice Programs.

“(viii) The Director of the Agency for Healthcare Research and Quality.

“(C) CHAIRPERSON.—The members of the advisory board appointed under subparagraph (A) shall elect a chairperson from among such members.

“(3) MEETINGS.—The advisory board shall meet at the call of the chairperson or upon the request of the Secretary, but not less often than 2 times each year.

“(4) DUTIES.—In order to ensure the most effective use and organization of Federal resources concerning family violence, the advisory board shall provide advice and make recommendations to Congress and the Secretary with respect to the implementation and revision of the research agenda of the research centers established under this section.

“(5) SUBCOMMITTEES.—In carrying out its functions under this subsection, the advisory board may establish subcommittees, convene workshops and conferences, and collect data. Such subcommittees may be composed of advisory board members and nonmember consultants with expertise in the particular area addressed by such subcommittees.

“(6) REPORTS.—The advisory board shall annually report to the appropriate authorizing and appropriations committees of Congress concerning the research agenda for the centers established under this section and the progress made in fulfilling that research agenda.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$15,000,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years 2005 through 2008.”

Subtitle B—Health Professional Education Programs

SEC. 321. HEALTH PROFESSIONAL EDUCATION GRANTS.

Part R of title III of the Public Health Service Act, as added by section 311, is amended by adding at the end the following:

“SEC. 399AA-2. HEALTH PROFESSIONAL EDUCATION GRANTS.

“(a) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to develop, implement, evaluate, and disseminate family violence education and training curricula, programs, and strategies.

“(b) ELIGIBILITY.—

“(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), an entity shall have a history of effective work in the field of family violence and health care and—

“(A) be a health care entity eligible for reimbursement under title XVIII of the Social Security Act or a local non-profit entity with expertise in family violence, a State coalition for domestic violence, a State coalition for sexual assault, or a State public health agency;

“(B) demonstrate an ability to maintain the training systems established with amounts received under the grant after the expiration of the grant funding and provide an assurance that such systems will be maintained if determined to be effective; and

“(C) prepare and submit to the Secretary at such time, in such manner, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purposes for which the grant is to be made.

“(2) PRIORITY.—Applicants that can demonstrate that they represent a team of organizations and agencies working collaboratively to strengthen the health care sys-

tem response to family violence may receive priority in funding.

“(c) USE OF FUNDS.—An entity shall use amounts received under a grant under this section to—

“(1) conduct evaluations of existing family violence identification and treatment training programs; and

“(2) develop (or adapt) and implement innovative training models or programs to identify and appropriately treat and refer victims of family violence in health professional schools and for practicing, health, behavioral health and public health providers.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$5,000,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years 2005 through 2008.”

Subtitle C—Grants to Foster Public Health Responses to Domestic Violence

SEC. 331. GRANTS.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

“SEC. 3990. GRANTS TO FOSTER PUBLIC HEALTH RESPONSES TO DOMESTIC VIOLENCE.

“(a) AUTHORITY TO AWARD GRANTS.—

“(1) IN GENERAL.—The Secretary shall award grants under this section to eligible State entities and eligible local entities in order to strengthen the response of State and local health care systems to domestic violence.

“(2) DEFINITIONS OF ELIGIBLE ENTITIES.—In this section:

“(A) ELIGIBLE STATE ENTITY.—The term eligible State entity’ means a State department (or other division) of health, a State domestic violence coalition or service-based program, or any other nonprofit, tribal, or State entity with a history of effective work in the field of domestic violence and health care, that demonstrates that the applicant is representing a team of organizations and agencies working collaboratively to strengthen the response of the health care system to domestic violence and that such team includes domestic violence and health care organizations.

“(B) ELIGIBLE LOCAL ENTITY.—The term eligible local entity’ means a nonprofit domestic violence service based program, a local department (or other division) of health, a local health clinic, hospital, or health system, or any other nonprofit, tribal, or local entity with a history of effective work in the field of domestic violence and health.

“(b) NUMBER AND DURATION OF PROGRAMS; MAXIMUM AMOUNT OF GRANTS.—

“(1) NUMBER OF PROGRAMS.—Not more than—

“(A) 10 programs shall be conducted by eligible State entities under a grant made under this section; or

“(B) 10 programs shall be conducted by eligible local entities under a grant made under this section.

“(2) DURATION.—A program conducted under a grant made under this section by an eligible State entity or an eligible local entity shall not exceed 4 years.

“(3) MAXIMUM AMOUNT OF GRANTS.—A grant awarded under this section shall not exceed—

“(A) \$350,000 per year, in the case of a program conducted by an eligible State entity; or

“(B) \$150,000 per year, in the case of a program conducted by an eligible local entity.

“(c) USE OF FUNDS.—

“(1) ELIGIBLE STATE ENTITIES.—An eligible State entity awarded a grant under this section shall use funds provided under the grant to design and implement comprehensive

statewide strategies to improve the response of the health care system to domestic violence in clinical and public health care settings and to promote education and awareness about domestic violence at a statewide level. Such strategies shall be in accordance with the following:

“(A) Such strategies shall include the following:

“(i) Collaboration with State departments (or other divisions) of health to integrate responses to domestic violence into existing policy, practice, and education efforts.

“(ii) Promotion of policies and funding sources that advance domestic violence identification, training, and protocol development and that protect the confidentiality of patients and prohibit insurance discrimination.

“(iii) Promotion of policies and funding sources that advance on-site access to services to address the safety, medical, mental health, and economic needs of patients in multiple settings either by increasing the capacity of existing health care professionals and behavioral and public health staff to address domestic violence issues or by contracting with or hiring domestic violence advocates to provide the services, or by modeling other services appropriate to the geographic and cultural needs of a site.

“(iv) Training and follow-up technical assistance to health care professionals and behavioral and public health staff to screen for domestic violence, and then to appropriately assess, treat, and refer patients who are victims of domestic violence to domestic violence services.

“(B) Such strategies may also include the following:

“(i) Dissemination, implementation, and evaluation of practice guidelines on domestic violence that guide the response of health care professionals and behavioral and public health staff to domestic violence.

“(ii) Where appropriate, development of training modules and policies that address the overlap of child abuse, domestic violence and elder abuse as well as childhood exposure to domestic violence.

“(iii) Creation and implementation of public education campaigns for patients and health care professionals and behavioral and public health staff about domestic violence prevention.

“(iv) Development and dissemination of education materials to patients and health care professionals and behavioral and public health staff.

“(v) Promotion of the inclusion of domestic violence into medical and nursing school curriculum and integration of domestic violence into health care accreditation and professional licensing examinations, such as medical boards.

“(vi) Evaluation of the practice and institutionalization of identification, intervention, and documentation of domestic violence and promotion of the use of quality improvement measurements.

“(2) ELIGIBLE LOCAL ENTITIES.—An eligible local entity awarded a grant under this section shall use funds provided under the grant to design and implement comprehensive local strategies to improve the response of the health care system to domestic violence in hospitals, clinics, managed care settings, emergency medical services, and other health care settings. Such strategies shall include the following:

“(A) Implementation, dissemination, and evaluation of policies and procedures to guide health care professionals and behavioral and public health staff responding to domestic violence including identification, treatment, and documentation of domestic violence and strategies to ensure that health

information is held in a manner that protects the patient's privacy and safety.

“(B) Training and follow-up technical assistance to health care professionals and behavioral and public health staff to identify domestic violence, and then to appropriately assess, treat, and refer patients who are victims of domestic violence to domestic violence services.

“(C) Development of on-site access to services to address the safety, medical, mental health, and economic needs of patients either by increasing the capacity of existing health care professionals and behavioral and public health staff to address domestic violence issues, by contracting with or hiring domestic violence advocates to provide the services, or to model other services appropriate to the geographic and cultural needs of a site.

“(D) Development or adaptation and dissemination of education materials for patients and health care professionals and behavioral and public health staff.

“(E) Evaluation of practice and the institutionalization of identification, intervention, and documentation including quality improvement measurements such as patient satisfaction surveys, patient record reviews, case consultation, or other methods used to evaluate and enhance staff compliance with protocols.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the purpose of awarding grants under this section \$5,000,000 for each of the fiscal years 2004 through 2008.”

Subtitle D—Provision of Services Under Federal Health Programs

SEC. 341. OPTIONAL COVERAGE OF DOMESTIC VIOLENCE IDENTIFICATION AND TREATMENT UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (a)(26), by striking “and” at the end;

(2) by redesignating paragraph (27) of subsection (a) as paragraph (28); and

(3) by inserting after paragraph (26) of subsection (a) the following new paragraph:

“(27) domestic violence identification and treatment services (as defined in subsection (x));” and

(4) by adding at the end the following new subsection:

“(x) The term ‘domestic violence identification and treatment services’ means the following services (as specified under the State plan) furnished by an attending health care provider (or, in the case of services described in paragraph (3), under arrangements between the provider and domestic violence experts) to the patient:

“(1) Routine verbal inquiries of women aged 18 years or older for domestic violence by a provider if the provider has not previously screened the patient or if the patient has been screened but the patient indicates that he or she is in a new relationship regardless of whether there are any clinical indicators or suspicion of abuse.

“(2) Danger assessment for persons who positively identify for domestic violence, including an immediate safety assessment, an initial risk assessment, and follow-up risk assessments during subsequent visits.

“(3) Treatment relating to domestic violence, including the following:

“(A) Safety education to assist the patient in developing a plan to promote her safety and well-being, and appropriate follow up.

“(B) Health education which provides written and verbal information about domestic violence, its impact on health, options for services, and any necessary follow up.

“(C) Psycho-social and counseling services that include an initial assessment, develop-

ment of a plan of care, individual or group counseling (as needed), and follow-up assessment, treatment, or intervention.

“(D) Documentation of screening, assessment, treatment, referrals, injuries, and illnesses related to domestic violence and who perpetrated the abuse using appropriate diagnostic codes and confidentiality (except as required by applicable State law).

“(4) Referral and case coordination for additional services, including services from domestic violence programs, community agencies, and judicial and other systems.”

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to services furnished on or after such date.

SEC. 342. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

“(p)(1) A contract may not be made or a plan approved which does not include coverage for domestic violence identification and treatment services.

“(2) For purposes of this subsection, the term ‘domestic violence identification and treatment services’ has the meaning given such term in section 1905(x) of the Social Security Act.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts made, and plans approved, after the end of the 6-month period beginning on the date of the enactment of this Act.

SEC. 343. TRAINING GRANTS UNDER THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT.

(a) PREFERENCE IN CERTAIN FUNDING.—Section 502(b)(2) of the Social Security Act (42 U.S.C. 702(b)(2)) is amended by adding at the end the following new subparagraph:

“(C) Of the amounts retained for projects described in subparagraphs (A) through (F) of section 501(a)(3), the Secretary shall provide preference to qualified applicants which demonstrate that the activities to be carried out with such amounts include training of service providers in how to identify and treat the effects of family violence, including children who have been exposed to family violence. This training should include—

“(i) identifying victims of family violence;

“(ii) assessing the immediate and short-term safety of the victim, the impact of the abuse on his or her health and assisting the victim in developing a plan to promote his or her safety;

“(iii) examining and treating such victims within the scope of the health professional's discipline, training, and practice (including providing medical advice regarding the dynamics and nature of family violence);

“(iv) maintaining complete medical records that include documentation of the examination, treatment given, and referrals made, and recording the location and nature of the victim's injuries, and establishing mechanisms to promote the privacy and confidentiality of those medical records; and

“(v) referring the victim to public and private nonprofit entities that provide services for such victims.”

(b) REQUIREMENT FOR PORTION OF EXPENDITURES ON DOMESTIC VIOLENCE IDENTIFICATION AND TREATMENT.—Section 505(a)(5) of the Social Security Act (42 U.S.C. 705(a)(5)) is amended—

(1) by striking “and” at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting “; and”; and

(3) by inserting after subparagraph (F) the following new subparagraph:

“(G) the State will set aside a reasonable portion (based upon the State's previous use

of funds under this title) of the funds provided for domestic violence identification and treatment services (as defined in section 1902(x)).”

(c) REPORTING DATA.—Section 506(a)(2) of the Social Security Act (42 U.S.C. 706(a)(2)) is amended by inserting after subparagraph (E) the following new subparagraph:

“(F) Information on how funds provided under this title are used to identify and treat domestic violence.”

(d) SEPARATE PROGRAM FOR DOMESTIC VIOLENCE IDENTIFICATION AND TREATMENT.—Title V of the Social Security Act is amended by adding at the end the following new section:

“SEPARATE PROGRAM FOR DOMESTIC VIOLENCE SCREENING AND TREATMENT

“SEC. 511. (a) For the purpose described in subsection (b), the Secretary shall, for fiscal year 2004 and each subsequent fiscal year, allot to each State which has transmitted an application for the fiscal year under section 505(a) an amount equal to the product of—

“(1) the amount appropriated in subsection (d) for the fiscal year; and

“(2) the percentage determined for the State under section 502(c)(1)(B)(ii).

“(b) The purpose of an allotment under subsection (a) to a State is to enable the State to provide for domestic violence identification and treatment, including the provision of domestic violence identification and treatment services (as defined in section 1905(x)), increasing the number of persons identified, assessed, treated, and referred and including training of health care professionals, and behavioral and public health staff, on how to identify and respond to victims of domestic violence.

“(c)(1) Sections 503, 507, and 508 apply to allotments under subsection (a) to the same extent and in the same manner as such sections apply to allotments under section 502(c).

“(2) Sections 505 and 506 apply to allotments under subsection (a) to the extent determined by the Secretary to be appropriate.

“(d) For the purpose of allotments under subsection (a), there are authorized to be appropriated for each fiscal year, beginning with fiscal year 2004, such sums as may be necessary.”

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to fiscal years beginning after the date of the enactment of this Act and the amendment made by subsection (c) shall apply to annual reports submitted for such fiscal years.

SEC. 344. DOMESTIC VIOLENCE IDENTIFICATION AND TREATMENT SERVICES AT COMMUNITY HEALTH CENTERS.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.), as amended by section 331, is amended by adding at the end the following:

“SEC. 399P. DOMESTIC VIOLENCE PREVENTION, IDENTIFICATION, AND TREATMENT AND PREVENTION GRANTS.

“(a) GRANTS AUTHORIZED.—The Secretary is authorized to award grants to eligible entities to improve the identification and treatment of domestic violence.

“(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may be used for activities such as—

“(1) the implementation, dissemination, and evaluation of policies and procedures to guide health care and behavioral health care professionals and other staff responding to domestic violence;

“(2) the provision of training and follow-up technical assistance to health care professionals and staff to identify domestic violence, and then to appropriately assess, treat, and refer patients who are victims of domestic violence to domestic violence service providers; and

“(3) the development of on-site access to services to address the safety, medical, mental health, and economic needs of patients either by increasing the capacity of existing health care professionals and staff to address these issues or by contracting with or hiring domestic violence advocates to provide the services, or by developing other models appropriate to the geographic and cultural needs of a site.

“(c) ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ shall mean a federally qualified health center as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4)).

“(d) APPLICATIONS.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$5,000,000 for each of the fiscal years 2004 through 2007.”

Mr. FRIST. Mr. President, I would like to turn to several unanimous consent requests.

UNANIMOUS CONSENT AGREEMENT—H.R. 1997

Mr. FRIST. Mr. President, I ask unanimous consent that, at a time to be determined by the majority leader, in consultation with the minority leader, the Senate proceed to consideration of H.R. 1997, a bill to protect unborn victims of violence, and that the bill be considered under the following limitations: that the following amendments be the only first-degree amendments in order, with the specified time limitations: Feinstein, Motherhood Protection Act, which is at the desk, 4 hours equally divided; Murray, domestic violence prevention, which is at the desk, 2 hours equally divided; and that there be an additional 30 minutes of debate equally divided on the underlying bill.

I further ask consent that no second-degree amendments be in order to the Feinstein and Murray amendments; and that upon disposition of all amendments, the bill, as amended, if amended, be read a third time, and the Senate proceed to a vote on passage, without any intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO REPORT LEGISLATIVE AND EXECUTIVE MATTERS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the Senate’s adjournment, committees be authorized to report legislative and executive matters on Thursday, March 18, from 10 a.m. to 12 noon.

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

MEASURE READ THE FIRST TIME—S. 2207

Mr. FRIST. Mr. President, I understand that S. 2207 is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2207) to improve women’s access to health care services, and the access of all individuals to emergency and trauma care services, by reducing the excessive burden the liability system places on the delivery of such services.

Mr. FRIST. I now ask for its second reading in order to place the bill on the Calendar under provisions of rule XIV and object to my own request.

The PRESIDING OFFICER. The bill will be read the second time on the next legislative day.

MEDICAL DEVICES TECHNICAL CORRECTIONS ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on (S. 1881) to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments by the Medical Device User Fee and Modernization Act of 2002, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1881) entitled “An Act to amend the Federal Food, Drug, and Cosmetic Act to make technical corrections relating to the amendments made by the Medical Device User Fee and Modernization Act of 2002, and for other purposes”, do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Medical Devices Technical Corrections Act”.

SEC. 2. TECHNICAL CORRECTIONS REGARDING PUBLIC LAW 107-250.

(a) TITLE I; FEES RELATING TO MEDICAL DEVICES.—Part 3 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379i et seq.), as added by section 102 of Public Law 107-250 (116 Stat. 1589), is amended—

(1) in section 737—

(A) in paragraph (4)(B), by striking “and for which clinical data are generally necessary to provide a reasonable assurance of safety and effectiveness” and inserting “and for which substantial clinical data are necessary to provide a reasonable assurance of safety and effectiveness”;

(B) in paragraph (4)(D), by striking “manufacturing”;

(C) in paragraph (5)(J), by striking “a premarket application” and all that follows and inserting “a premarket application or premarket report under section 515 or a premarket application under section 351 of the Public Health Service Act.”; and

(D) in paragraph (8), by striking “The term ‘affiliate’ means a business entity that has a relationship with a second business entity” and inserting “The term ‘affiliate’ means a business entity that has a relationship with a second business entity (whether domestic or international)”;

(2) in section 738—

(A) in subsection (a)(1)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i) by striking “subsection (d),” and inserting “subsections (d) and (e),”;

(II) in clause (iv), by striking “clause (i),” and all that follows and inserting “clause (i).”;

and

(III) in clause (vii), by striking “clause (i),” and all that follows and inserting “clause (i), subject to any adjustment under subsection (e)(2)(C)(ii).”;

(ii) in subparagraph (D), in each of clauses (i) and (ii), by striking “application” and inserting “application, report.”;

(B) in subsection (d)(2)(B), beginning in the second sentence, by striking “firms, which show” and inserting “firms, which show”;

(C) in subsection (e)—

(i) in paragraph (1), by striking “Where” and inserting “For fiscal year 2004 and each subsequent fiscal year, where”;

(ii) in paragraph (2)—

(I) in subparagraph (B), beginning in the second sentence, by striking “firms, which show” and inserting “firms, which show”;

(II) in subparagraph (C)(i), by striking “Where” and inserting “For fiscal year 2004 and each subsequent fiscal year, where”;

(D) in subsection (f), by striking “for filing”;

and

(E) in subsection (h)(2)(B)—

(i) in clause (ii), by redesignating subclauses (I) and (II) as items (aa) and (bb), respectively;

(ii) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(iii) by striking “The Secretary” and inserting the following:

“(i) IN GENERAL.—The Secretary”;

and

(iv) by adding at the end the following:

“(ii) MORE THAN 5 PERCENT.—To the extent such costs are more than 5 percent below the specified level in subparagraph (A)(ii), fees may not be collected under this section for that fiscal year.”

(b) TITLE II; AMENDMENTS REGARDING REGULATION OF MEDICAL DEVICES.—

(I) INSPECTIONS BY ACCREDITED PERSONS.—Section 704(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(g)), as added by section 201 of Public Law 107-250 (116 Stat. 1602), is amended—

(A) in paragraph (1), in the first sentence, by striking “conducting inspections” and all that follows and inserting “conducting inspections of establishments that manufacture, prepare, propagate, compound, or process class II or class III devices, which inspections are required under section 510(h) or are inspections of such establishments required to register under section 510(i).”;

(B) in paragraph (5)(B), in the first sentence, by striking “or poses” and all that follows through the period and inserting “poses a threat to public health, fails to act in a manner that is consistent with the purposes of this subsection, or where the Secretary determines that there is a financial conflict of interest in the relationship between the accredited person and the owner or operator of a device establishment that the accredited person has inspected under this subsection.”;

(C) in paragraph (6)(A)—

(i) in clause (i), by striking “of the establishment pursuant to subsection (h) or (i) of section 510” and inserting “described in paragraph (1)”;

(ii) in clause (ii)—

(I) in the matter preceding subclause (I)—

(aa) by striking “each inspection” and inserting “inspections”;

(bb) by inserting “during a 2-year period” after “person”;

(II) in subclause (I), by striking “such a person” and inserting “an accredited person”;

(iii) in clause (iii)—

(I) in the matter preceding subclause (I), by striking “and the following additional conditions are met:” and inserting “and 1 or both of the following additional conditions are met:”;

(II) in subclause (I), by striking “accredited” and all that follows through the period and inserting “(accredited under paragraph (2) and

identified under clause (ii)(II) as a person authorized to conduct such inspections of device establishments.”; and

(III) in subclause (II), by inserting “or by a person accredited under paragraph (2)” after “by the Secretary”;

(iv) in clause (iv)(I)—

(I) in the first sentence—

(aa) by striking “the two immediately preceding inspections of the establishment” and inserting “inspections of the establishment during the previous 4 years”; and

(bb) by inserting “section” after “pursuant to”;

(II) in the third sentence—

(aa) by striking “the petition states a commercial reason for the waiver”; and

(bb) by inserting “not” after “the Secretary has not determined that the public health would”; and

(III) in the fourth sentence, by striking “granted until” and inserting “granted or deemed to be granted until”; and

(v) in clause (iv)(II)—

(I) by inserting “of a device establishment required to register” after “to be conducted”; and

(II) by inserting “section” after “pursuant to”;

(D) in paragraph (6)(B)(iii)—

(i) in the first sentence, by striking “, and data otherwise describing whether the establishment has consistently been in compliance with sections 501 and 502 and other” and inserting “and with other”; and

(ii) in the second sentence—

(I) by striking “inspections” and inserting “inspectional findings”; and

(II) by inserting “relevant” after “together with all other”;

(E) in paragraph (6)(B)(iv)—

(i) by inserting “(I)” after “(iv)”; and

(ii) by adding at the end the following:

“(I) If, during the two-year period following clearance under subparagraph (A), the Secretary determines that the device establishment is substantially not in compliance with this Act, the Secretary may, after notice and a written response, notify the establishment that the eligibility of the establishment for the inspections by accredited persons has been suspended.”;

(F) in paragraph (6)(C)(ii), by striking “in accordance with section 510(h), or has not during such period been inspected pursuant to section 510(i), as applicable”;

(G) in paragraph (10)(B)(iii), by striking “a reporting” and inserting “a report”; and

(H) in paragraph (12)—

(i) by striking subparagraph (A) and inserting the following:

“(A) the number of inspections conducted by accredited persons pursuant to this subsection and the number of inspections conducted by Federal employees pursuant to section 510(h) and of device establishments required to register under section 510(i);” and

(ii) in subparagraph (E), by striking “obtained by the Secretary” and all that follows and inserting “obtained by the Secretary pursuant to inspections conducted by Federal employees”;

(2) OTHER CORRECTIONS.—

(A) PROHIBITED ACTS.—Section 301(gg) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(gg)), as amended by section 201(d) of Public Law 107-250 (116 Stat. 1609), is amended to read as follows:

“(gg) The knowing failure to comply with paragraph (7)(E) of section 704(g); the knowing inclusion by a person accredited under paragraph (2) of such section of false information in an inspection report under paragraph (7)(A) of such section; or the knowing failure of such a person to include material facts in such a report.”.

(B) ELECTRONIC LABELING.—Section 502(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(f)), as amended by section 206 of Public Law 107-250 (116 Stat. 1613), is amended, in the last sentence—

(i) by inserting “or by a health care professional and required labeling for in vitro diagnostic devices intended for use by health care professionals or in blood establishments” after “in health care facilities”;

(ii) by inserting a comma after “means”;

(iii) by striking “requirements of law and, that” and inserting “requirements of law, and that”;

(iv) by striking “the manufacturer affords health care facilities the opportunity” and inserting “the manufacturer affords such users the opportunity”; and

(v) by striking “the health care facility”.

(c) TITLE III; ADDITIONAL AMENDMENTS.—

(1) EFFECTIVE DATE.—Section 301(b) of Public Law 107-250 (116 Stat. 1616), is amended by striking “18 months” and inserting “36 months”.

(2) PREMARKET NOTIFICATION.—Section 510(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(o)), as added by section 302(b) of Public Law 107-250 (116 Stat. 1616), is amended—

(A) in paragraph (1)(B), by striking “, adulterated” and inserting “or adulterated”; and

(B) in paragraph (2)—

(i) in subparagraph (B), by striking “, adulterated” and inserting “or adulterated”; and

(ii) in subparagraph (E), by striking “semicritical” and inserting “semi-critical”.

(d) MISCELLANEOUS CORRECTIONS.—

(1) CERTAIN AMENDMENTS TO SECTION 515.—

(A) IN GENERAL.—

(i) TECHNICAL CORRECTION.—Section 515(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)), as amended by sections 209 and 302(c)(2)(A) of Public Law 107-250 (116 Stat. 1613, 1618), is amended by redesignating paragraph (3) (as added by section 209 of such Public Law) as paragraph (4).

(ii) MODULAR REVIEW.—Section 515(c)(4)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)(4)(B)) is amended by striking “unless an issue of safety” and inserting “unless a significant issue of safety”.

(B) CONFORMING AMENDMENT.—Section 210 of Public Law 107-250 (116 Stat. 1614) is amended by striking “, as amended” and all that follows through “by adding” and inserting “is amended in paragraph (3), as redesignated by section 302(c)(2)(A) of this Act, by adding”.

(2) CERTAIN AMENDMENTS TO SECTION 738.—

(A) IN GENERAL.—Section 738(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379j(a)), as amended by subsection (a), is amended—

(i) in the matter preceding paragraph (1)—

(I) by striking “(a) TYPES OF FEES.—Beginning on” and inserting the following:

“(a) TYPES OF FEES.—

“(1) IN GENERAL.—Beginning on”; and

(II) by striking “this section as follows:” and inserting “this section.”; and

(ii) by striking “(1) PREMARKET APPLICATION,” and inserting the following: “(2) PREMARKET APPLICATION,”.

(B) CONFORMING AMENDMENTS.—Section 738 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379j), as amended by subparagraph (A), is amended—

(i) in subsection (d)(1), in the last sentence, by striking “subsection (a)(1)(A)” and inserting “subsection (a)(2)(A)”;

(ii) in subsection (e)(1), by striking “subsection (a)(1)(A)(vii)” and inserting “subsection (a)(2)(A)(vii)”;

(iii) in subsection (e)(2)(C)—

(I) in each of clauses (i) and (ii), by striking “subsection (a)(1)(A)(vii)” and inserting “subsection (a)(2)(A)(vii)”;

(II) in clause (ii), by striking “subsection (a)(1)(A)(i)” and inserting “subsection (a)(2)(A)(i)”;

(iv) in subsection (j), by striking “subsection (a)(1)(D),” and inserting “subsection (a)(2)(D),”.

(C) ADDITIONAL CONFORMING AMENDMENT.—Section 102(b)(1) of Public Law 107-250 (116

Stat. 1600) is amended, in the matter preceding subparagraph (A), by striking “section 738(a)(1)(A)(ii)” and inserting “section 738(a)(2)(A)(ii)”.

(3) PUBLIC LAW 107-250.—Public Law 107-250 is amended—

(A) in section 102(a) (116 Stat. 1589), by striking “(21 U.S.C. 379f et seq.)” and inserting “(21 U.S.C. 379f et seq.)”;

(B) in section 102(b) (116 Stat. 1600)—

(i) by striking paragraph (2);

(ii) in paragraph (1), by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(iii) by striking:

“(b) FEE EXEMPTION FOR CERTAIN ENTITIES SUBMITTING PREMARKET REPORTS.—

“(1) IN GENERAL.—A person submitting a premarket report” and inserting:

“(b) FEE EXEMPTION FOR CERTAIN ENTITIES SUBMITTING PREMARKET REPORTS.—A person submitting a premarket report”; and

(C) in section 212(b)(2) (116 Stat. 1614), by striking “, such as phase IV trials.”.

SEC. 3. REPORT ON BARRIERS TO AVAILABILITY OF DEVICES INTENDED FOR CHILDREN.

Not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the barriers to the availability of devices intended for the treatment or diagnosis of diseases and conditions that affect children. The report shall include any recommendations of the Secretary of Health and Human Services for changes to existing statutory authority, regulations, or agency policy or practice to encourage the invention and development of such devices.

Mr. FRIST. I ask unanimous consent that the Senate concur in the House amendment, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

WILKIE D. FERGUSON, JR. UNITED STATES COURTHOUSE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1904.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1904) to designate the United States courthouse located at 400 North Miami Avenue in Miami, Florida as the “Wilkie D. Ferguson, Jr. United States Courthouse”.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. 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 any statements relating to the bill be printed in the RECORD.

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

The bill (S. 1904) was read the third time and passed, as follows:

S. 1904

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

SECTION 1. DESIGNATION.

The United States courthouse located at 400 North Miami Avenue in Miami, Florida,

shall be known and designated as the "Wilkie D. Ferguson, Jr. United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Wilkie D. Ferguson, Jr. United States Courthouse".

SENATOR PAUL SIMON FEDERAL BUILDING

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2022.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (S. 2022) to designate the Federal building located at 250 West Cherry Street in Carbondale, IL, as the "Senator Paul Simon Federal Building."

There being no objection, the Senate proceeded to consider the bill.

Mr. DURBIN. Mr. President, on December 9, 2003, we lost our colleague, U.S. Senator Paul Simon, a great public servant and a great friend.

At the age of 19, Paul Simon became the nation's youngest editor-publisher when he accepted a Lion's Club challenge to save the Troy Tribune in Troy, IL. From that start, he built a chain of 13 newspapers in southern and central Illinois. He also used his post in the newspaper world to expose criminal activities and in 1951, at age 22, he was called as a key witness to testify before the U.S. Senate's Crime Investigating Committee.

Paul Simon served the state of Illinois and the United States for decades. He is the only individual to have served in both the Illinois House of Representatives and the Illinois Senate, and the U.S. House of Representatives and U.S. Senate. He served in the state legislature for 14 years, and won the Independent Voters of Illinois' "Best Legislator Award" every session. He also served as Lieutenant Governor for Illinois from 1968 to 1972. In addition, he served in the U.S. Army from 1951 to 1953.

Paul Simon highly valued education and the youth of our nation. In addition to his work in Congress to strengthen public education in America, he started the public affairs reporting program at Sangamon State University, now the University of Illinois at Springfield. He later became the founder and director of the Public Policy Institute at Southern Illinois University in Carbondale, IL, and taught there for more than 6 years. In addition, Paul Simon wrote 22 books and earned over 55 honorary degrees.

From journalism to government to education, Paul Simon set the standard for honesty and caring in public life. He was an unapologetic champion of the less fortunate. He was genuine in his politics, life and values.

Now those of us who loved and respected him will do our best to carry

on his tradition. We will find many ways, great and small, to honor him.

Today, the Senate will pass companion legislation to a bill Congressman JERRY COSTELLO has introduced in the House. This legislation would designate the federal building at 250 West Cherry Street in Carbondale, Illinois as the "Senator Paul Simon Federal Building." I am happy to have Senator FITZGERALD as a cosponsor of this legislation. I thank Senators INHOFE and JEFFORDS for their timely consideration of this legislation in the Senate Environment and Public Works Committee.

Paul Simon moved to Carbondale in 1974, where he was elected to serve in the U.S. House of Representatives. He continued to call the Carbondale area his home until his death. Naming this building in Carbondale after him will help present and future generations remember and honor Paul Simon, a great man who lived in and worked for the people of Carbondale, Illinois and our Nation with the greatest integrity.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements related thereto be printed in the RECORD.

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

The bill (S. 2022) was read the third time and passed, as follows:

S. 2022

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

SECTION 1. DESIGNATION OF FEDERAL BUILDING.

The Federal building located at 250 West Cherry Street in Carbondale, Illinois shall be known and designated as the "Senator Paul Simon Federal Building".

SEC. 2. REFERENCE.

Any reference in a law, map, regulation, document, paper or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the Senator Paul Simon Federal Building.

RONALD REAGAN FEDERAL BUILDING

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2043.

The PRESIDING OFFICER. The clerk will state the bill by title.

A bill (S. 2043) to designate a Federal building in Harrisburg, Pennsylvania, as the "Ronald Reagan Federal Building."

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The bill (S. 2043) was read the third time and passed, as follows:

S. 2043

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

SECTION 1. RONALD REAGAN FEDERAL BUILDING.

(a) DESIGNATION.—The Federal building located at 228 Walnut Street, Harrisburg, Pennsylvania, shall be known and designated as the "Ronald Reagan Federal Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the building referred to in subsection (a) shall be deemed to be a reference to the Ronald Reagan Federal Building.

HONORING THE COUNTY OF CUMBERLAND, NC, FOR ITS 250TH ANNIVERSARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 307, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 307) honoring the county of Cumberland, North Carolina, its municipalities and community partners as they celebrate the 250th year of the existence of Cumberland County.

There being no objection, the Senate proceeded to consider the resolution.

AMENDMENT NO. 2857

Mr. FRIST. Mr. President, I understand that Senator EDWARDS has an amendment at the desk. I ask unanimous consent that it be considered agreed to, the resolution, as amended, be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD as if read, without intervening action or debate.

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

The amendment (No. 2857) was agreed to, as follows:

Strike all after the resolved clause and insert the following:

That the Senate commemorates the 250th Anniversary Celebration of the county of Cumberland, North Carolina, its municipalities, and other community partners.

The resolution (S. Res. 307), as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble, reads as follows:

S. RES. 307

Whereas for thousands of years before the European settlers arrived, Cumberland County's streams and forests were home to native peoples who lived in the area, hunted, farmed, and buried their dead;

Whereas Cumberland County, located at the head of navigation on the Cape Fear River, quickly became a strong area of trade between the port city of Wilmington and the lower Cape Fear River to the southeast and the Carolina back country to the west;

Whereas the upper Cape Fear Valley in present Cumberland County experienced an early migration of Highland Scots beginning in 1739, many of whom settled in the area

known as "The Bluff" alongside the Cape Fear River 4 miles south of the Lower Little River;

Whereas in 1754, the area known as Cumberland County was formed from lands carved from Bladen County and was named in honor of William Augustus, Duke of Cumberland, third son of George II, King of England, an area which reflected a mixture of ethnic and national backgrounds;

Whereas each municipality was individually chartered: Falcon in 1913; Fayetteville in 1762; Godwin in 1905; Hope Mills in 1891; Linden in 1913; Spring Lake in 1951; Stedman in 1913; and Wade in 1913;

Whereas on June 20, 1775, 13 months before the Declaration of Independence, a group of Cumberland County's active patriots signed "The Association" later called the "Liberty Point Resolves", a document that vowed to "Go forth and be ready to sacrifice our lives and fortunes to secure her freedom and safety"; a marker at the point lists the signers of "The Association";

Whereas the period of the American Revolution was a time of divided loyalties in Cumberland County, and a considerable portion of the population, especially Highland Scots, were staunchly loyal to the British Crown, among them was the famous Scottish heroine Flora McDonald;

Whereas African-American people, both slaves and free citizens, were represented in the early population of Cumberland County, and during the American Revolution several of the county's free African-Americans fought for the patriot cause; among the notables was the midwife Aunt Hannah Mallet (1755-1857) who died at the age of 102; she delivered hundreds of babies in her lifetime, and she typified the courage and vital role of the early 19th-century African-American community;

Whereas in 1783, the towns of Campbellton and Cross Creek merged to become Fayetteville, the first town in the United States named in honor of the Revolutionary War hero, Marquis de Lafayette;

Whereas in November 1789, the North Carolina General Assembly voted to adopt and ratify the United States Constitution at the Market House in Fayetteville, then known as the State House;

Whereas in 1789, the University of North Carolina, the first State university chartered in the United States, was chartered by the North Carolina General Assembly in Fayetteville, it being the first State university;

Whereas in 1793, the Fayetteville Independent Light Infantry Company was organized in Cumberland County; it has the distinction of being the oldest military unit in the South in continuous existence;

Whereas in 1816, the Fayetteville Observer was founded as a weekly newspaper; it is now published daily and is North Carolina's oldest newspaper still in publication;

Whereas in 1825, the Marquis de Lafayette visited the city named for him and stayed in the McRae family home that once stood on the site of the Historic Courthouse on Gillespie Street in Fayetteville;

Whereas in 1831, the Great Fire destroyed the State House (the Market House) and many other buildings and caused more damage than the 1871 Chicago fire or the 1906 San Francisco earthquake;

Whereas in 1865, General William T. Sherman brought the Union Army to Cumberland County, destroying the Confederate arsenal and effectively bringing the county back into the Union;

Whereas in 1867, 7 visionary African-American citizens of Cumberland County paid about \$136 for 2 lots on Gillespie Street and formed the self-perpetuating Board of Trustees of the Howard School for the education of African-American youth; this school later

became Fayetteville State University (FSU), which now offers 41 undergraduate programs, 22 graduate programs, and 1 doctoral program; FSU has 18 Central Intercollegiate Athletic Association (CIAA) and 2 National Collegiate Athletic Association (NCAA) championships;

Whereas in 1914, Babe Ruth, the New York Yankee great, hit his first homerun as a professional at the old ballpark on Gillespie Street in Cumberland County, and in doing so, the 19-year-old "babe" so amazed the crowd, that George Herman Ruth was forever known by the nickname, "Babe", bestowed upon him while playing in Cumberland County;

Whereas in 1918, Camp Bragg was established from lands ceded from Cumberland County; it is now known as Fort Bragg, home of the 18th Airborne Corps, the 82d Airborne Division, and the United States Army Special Operations Command;

Whereas Fort Bragg was named for North Carolina native Lt. General Braxton Bragg; Fort Bragg soldiers and their families continue to be an integral part of the history and heritage of Cumberland County;

Whereas in 1919, Pope Army Airfield was established and remained part of the Army Air Corps until 1947 when the United States Air Force was established; it was home to the 43d Airlift Wing and the 18th Air Support Operations Group; Pope airmen and their families continue to be an integral part of the history and heritage of Cumberland County;

Whereas on November 1, 1956, Methodist College was chartered as a senior coeducational liberal arts college; it has grown to more than 2,100 students who hail from 48 States and 30 countries, graduated 8,145 students, and awarded associate's, bachelor's, or master's degrees in 57 majors and concentrations; Methodist College NCAA Division III athletic teams have earned 24 national championship titles;

Whereas in 1961, Fayetteville Technical Community College (FTCC) was founded as the Fayetteville Area Industrial Education Center, with a faculty and staff of 9 people serving 50 students, and has since evolved into a comprehensive institution serving approximately 40,000 students annually, offering more than 121 programs;

Whereas Cumberland County's 6th courthouse, circa 1924, which is listed on the National Register of Historic Places, is being established and dedicated, pursuant to the county's 250th anniversary, as a gallery of early prominent members of the local bar and elected county officials; and

Whereas Cumberland County and the municipalities of Falcon, Fayetteville, Godwin, Hope Mills, Linden, Spring Lake, Stedman, and Wade, along with civic groups, private businesses and military partners, are joining together to celebrate 250 years of history, culture, and diversity; the celebration will take place March 26-28, 2004: Now, therefore, be it

Resolved, That the Senate commemorates the 250th Anniversary Celebration of the county of Cumberland, North Carolina, its municipalities, and other community partners.

NATIONAL HOUSING ACT AMENDMENT

Mr. FRIST. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of H.R. 3724 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3724) to amend section 220 of the National Housing Act to make a technical correction to restore allowable increases in the maximum mortgage limits for FHA-insured mortgages for multifamily housing projects to cover increased costs of installing a solar energy system or residential energy conservation measures.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. 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 any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 3724) was read the third time and passed.

SENATE BUSINESS

Mr. FRIST. Mr. President, this week the Senate completed action on S. Con. Res. 95, the fiscal year 2005 budget resolution, under the tremendous leadership of Chairman NICKLES. As we look over the last 4 days, we have had a very busy course with debating and disposing of 64 amendments to the budget resolution. There were 25 rollcall votes in relation to the amendments, including passage.

We had a long day of voting yesterday until the early hours of this morning with 19 votes, and Senator NICKLES guided the budget resolution to passage early this morning by a vote of 51 to 45.

In addition to that business, we were able to clear executive nominations. The Senate confirmed 17 nominations. Two of the nominations confirmed were district judges from Arizona and Mississippi. I am pleased we were able to clear these judicial nominations, and I look forward to continuing this process for the remaining nominations that are on the calendar.

Indeed, there are approximately 22 judges on the calendar, of which I believe 15 or so should move expeditiously. I will continue to work with the Democratic leader in scheduling these when we return from the recess. I understand the Democratic leader mentioned additional nominations, and I will be consulting with him on those as well. He mentioned them earlier today and last night, and we will be consulting on those nominations.

Late last night, as I mentioned earlier, the Senate confirmed the nomination of Mark McClellan to be Administrator of the Centers for Medicare and Medicaid Services.

Yesterday, the Senate also spoke with one voice with regard to a tragedy, the deadly attack yesterday against the people of Spain. Our condolences were expressed. We had a moment of silence yesterday to honor the people of Spain. In addition, we sponsored a resolution that condemned this

cowardly act. Our prayers continue to go out to the leaders and the people of Spain over what we know is a very difficult time.

In addition, we consider other matters that people do not see very much, and I won't go through all of them, but we passed S. 741, the animal drug bill that Senator SESSIONS sponsored that provides for new drugs on what are called minor animals.

We passed H.R. 3195 just this morning, a bill that extends Small Business Administration programs. That is Senator SNOWE's bill.

We passed H.R. 254, which are amendments to the U.S.-Mexico Agreement on the Border Environment Cooperation Commission and the North American Development Bank. Senator HUTCHISON was instrumental in clearing this bill.

The list goes on. I did want to reflect the amount of work we were able to pull through over the course of the week.

In addition, we were able to ratify the United States-Japan Tax Treaty reported by Chairman LUGAR and the Foreign Relations Committee. This is a very important treaty.

We just passed Senator ALEXANDER's S. 1881, the Medical Devices and Technical Correction Act.

Senator SPECTER secured passage of S. 2043, which designates a Federal building in Harrisburg, PA, as the "Ronald Reagan Federal Building."

Senator SHELBY assisted in passage of H.R. 3724.

So we had a very productive week by anyone's measure. I wanted to notice the hard work and efforts of all of my colleagues with respect to these legislative and executive accomplishments.

REMOVAL OF INJUNCTION OF SECRECY

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaties, which I will send to the desk, and that were transmitted to the Senate on March 12, 2004, by the President of the United States. I further ask unanimous consent that the treaties be considered as having been read the first time; that they be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed; and that the President's messages be printed in the RECORD. I now send that list to the desk.

The list is as follows:

Investment Protocol with Estonia (Treaty Doc. 108-17);

Additional Investment Protocol with the Czech Republic (Treaty Doc. 108-18);

Additional Investment Protocol with the Slovak Republic (Treaty Doc. 108-19);

Additional Investment Protocol with the Latvia (Treaty Doc. 108-20);

Additional Investment Protocol with Lithuania (Treaty Doc. 108-21); and

Additional Protocol Concerning Business and Economic Relations with Poland (Treaty Doc. 108-22).

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

The messages of the President are as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Protocol Between the Government of the United States of America and the Government of the Republic of Estonia to the Treaty for the Encouragement and Reciprocal Protection of Investment of April 19, 1994, signed at Brussels on October 24, 2003. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Protocol.

I have already forwarded to the Senate similar Protocols for Romania and Bulgaria and now forward simultaneously to the Senate Protocols for the Czech Republic, Estonia, Latvia, Lithuania, Poland, and the Slovak Republic. Each of these Protocols is the result of an understanding the United States reached with the European Commission and these six countries that will join the European Union (EU) on May 1, 2004, as well as with Bulgaria and Romania, which are expected to join the EU in 2007.

The understanding is designed to preserve U.S. bilateral investment treaties (BITs) with each of these countries after their accession to the EU by establishing a framework acceptable to the European Commission for avoiding or remedying present and possible future incompatibilities between their BIT obligations and their future obligations of EU membership. It expresses the U.S. intent to amend the U.S. BITS, including the BIT with Estonia, in order to eliminate incompatibilities between certain BIT obligations and EU law. It also establishes a framework for addressing any future incompatibilities that may arise as EU authority in the area of investment expands in the future, and endorses the principle of protecting existing U.S. investments from any future EU measures that may restrict foreign investment in the EU.

The United States has long championed the benefits of an open investment climate, both at home and abroad. It is the policy of the United States to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. This Protocol preserves the U.S. BIT with Estonia, with which the United States has an expanding relationship, and the protections it affords U.S. investors even after Estonia joins the EU. Without it, the European Commission would likely require Estonia to terminate its U.S. BIT upon accession because of existing and possible future incompatibilities between our current BIT and EU law.

I recommend that the Senate consider this Protocol as soon as possible, and give its advice and consent to ratification at an early date.

GEORGE W. BUSH.
THE WHITE HOUSE, March 12, 2004.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Additional Protocol Between the United States of America and the Czech Republic to the Treaty Between the United States of America and the Czech and Slovak Federal Republic Concerning the Reciprocal Encouragement and Protection of Investment of October 22, 1991, signed at Brussels on December 10, 2003. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Protocol.

I have already forwarded to the Senate similar Protocols for Romania and Bulgaria and now forward simultaneously to the Senate Protocols for the Czech Republic, Estonia, Latvia, Lithuania, Poland, and the Slovak Republic. Each of these Protocols is the result of an understanding the United States reached with the European Commission and these six countries that will join the European Union (EU) on May 1, 2004, as well as with Bulgaria and Romania, which are expected to join the EU in 2007.

The understanding is designed to preserve U.S. bilateral investment treaties (BITs) with each of these countries after their accession to the EU by establishing a framework acceptable to the European Commission for avoiding or remedying present and possible future incompatibilities between their BIT obligations and their future obligations of EU membership. It expresses the U.S. intent to amend the U.S. BITS, including the BIT with the Czech Republic, in order to eliminate incompatibilities between certain BIT obligations and EU law. It also establishes a framework for addressing any future incompatibilities that may arise as EU authority in the area of investment expands in the future, and endorses the principle of protecting existing U.S. investments from any future EU measures that may restrict foreign investment in the EU.

The United States has long championed the benefits of an open investment climate, both at home and abroad. It is the policy of the United States to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. This Protocol preserves the U.S. BIT with the Czech Republic, with which the United States has an expanding relationship, and the protections it affords U.S. investors even after the Czech Republic joins the EU. Without it, the European Commission would likely require the Czech Republic to terminate its U.S. BIT upon accession because of existing and possible future incompatibilities between our current BIT and EU law.

I recommend that the Senate consider this Protocol as soon as possible, and give its advice and consent to ratification at an early date.

GEORGE W. BUSH.
THE WHITE HOUSE, March 12, 2004.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Additional Protocol Between the United States of America and the Slovak Republic to the Treaty Between the United States of America and the Czech and Slovak Federal Republic Concerning the Reciprocal Encouragement and Protection of Investment of October 22, 1991, signed at Brussels on September 22, 2003. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Protocol.

I have already forwarded to the Senate similar Protocols for Romania and Bulgaria and now forward simultaneously to the Senate Protocols for the Czech Republic, Estonia, Latvia, Lithuania, Poland, and the Slovak Republic. Each of these Protocols is the result of an understanding the United States reached with the European Commission and these six countries that will join the European Union (EU) on May 1, 2004, as well as with Bulgaria and Romania, which are expected to join the EU in 2007.

The understanding is designed to preserve U.S. bilateral investment treaties (BITs) with each of these countries after their accession to the EU by establishing a framework acceptable to the European Commission for avoiding or remedying present and possible future incompatibilities between their BIT obligations and their future obligations of EU membership. It expresses the U.S. intent to amend the U.S. BITs, including the BIT with the Slovak Republic, in order to eliminate incompatibilities between certain BIT obligations and EU law. It also establishes a framework for addressing any future incompatibilities that may arise as EU authority in the area of investment expands in the future, and endorses the principle of protecting existing U.S. investments from any future EU measures that may restrict foreign investment in the EU.

The United States has long championed the benefits of an open investment climate, both at home and abroad. It is the policy of the United States to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. This Protocol preserves the U.S. BIT with the Slovak Republic, with which the United States has an expanding relationship, and the protections it affords U.S. investors even after the Slovak Republic joins the EU. Without it, the European Commission would likely require the Slovak Republic to terminate its U.S. BIT upon accession because of existing and possible future incompatibilities between our current BIT and EU law.

I recommend that the Senate consider this Protocol as soon as possible, and give its advice and consent to ratification at an early date.

GEORGE W. BUSH.
THE WHITE HOUSE, March 12, 2004.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Additional Protocol Between the Government of the United States of America and the Government of the Republic of Latvia to the Treaty for the Encouragement and Reciprocal Protection of Investment of January 13, 1995, signed at Brussels on September 22, 2003. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Protocol.

I have already forwarded to the Senate similar Protocols for Romania and Bulgaria and now forward simultaneously to the Senate Protocols for the Czech Republic, Estonia, Latvia, Lithuania, Poland, and the Slovak Republic. Each of these Protocols is the result of an understanding the United States reached with the European Commission and these six countries that will join the European Union (EU) on May 1, 2004, as well as with Bulgaria and Romania, which are expected to join the EU in 2007.

The understanding is designed to preserve U.S. bilateral investment treaties (BITs) with each of these countries after their accession to the EU by establishing a framework acceptable to the European Commission for avoiding or remedying present and possible future incompatibilities between their BIT obligations and their future obligations of EU membership. It expresses the U.S. intent to amend the U.S. BITs, including the BIT with Latvia, in order to eliminate incompatibilities between certain BIT obligations and EU law. It also establishes a framework for addressing any future incompatibilities that may arise as EU authority in the area of investment expands in the future, and endorses the principle of protecting existing U.S. investments from any future EU measures that may restrict foreign investment in the EU.

The United States has long championed the benefits of an open investment climate, both at home and abroad. It is the policy of the United States to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. This Protocol preserves the U.S. BIT with Latvia, with which the United States has an expanding relationship, and the protections it affords U.S. investors even after Latvia joins the EU. Without it, the European Commission would likely require Latvia to terminate its U.S. BIT upon accession because of existing and possible future incompatibilities between our current BIT and EU law.

I recommend that the Senate consider this Protocol as soon as possible, and give its advice and consent to ratification at an early date.

GEORGE W. BUSH.
THE WHITE HOUSE, March 12, 2004.

To the Senate of the United States:

With a view to receiving the advice and consent of Senate to ratification, I

transmit herewith the Additional Protocol Between the Government of the United States of America and the Government of the Republic of Lithuania to the Treaty for the Encouragement and Reciprocal Protection of Investment of January 14, 1998, signed at Brussels on September 22, 2003. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Protocol.

I have already forwarded to the Senate similar Protocols for Romania and Bulgaria and now forward simultaneously to the Senate Protocols for the Czech Republic, Estonia, Latvia, Lithuania, Poland, and the Slovak Republic. Each of these Protocols is the result of an understanding the United States reached with the European Commission and these six countries that will join the European Union (EU) on May 1, 2004, as well as with Bulgaria and Romania, which are expected to join the EU in 2007.

The understanding is designed to preserve U.S. bilateral investment treaties (BITs) with each of these countries after their accession to the EU by establishing a framework acceptable to the European Commission for avoiding or remedying present and possible future incompatibilities between their BIT obligations and their future obligations of EU membership. It expresses the U.S. intent to amend the U.S. BITs, including the BIT with Lithuania, in order to eliminate incompatibilities between certain BIT obligations and EU law. It also establishes a framework for addressing any future incompatibilities that may arise as EU authority in the area of investment expands in the future, and endorses the principle of protecting existing U.S. investments from any future EU measures that may restrict foreign investment in the EU.

The United States has long championed the benefits of an open investment climate, both at home and abroad. It is the policy of the United States to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. This Protocol preserves the U.S. BIT with Lithuania, with which the United States has an expanding relationship, and the protections it affords U.S. investors even after Lithuania joins the EU. Without it, the European Commission would likely require Lithuania to terminate its U.S. BIT upon accession because of existing and possible future incompatibilities between our current BIT and EU law.

I recommend that the Senate consider this Protocol as soon as possible, and give its advice and consent to ratification at an early date.

GEORGE W. BUSH.
THE WHITE HOUSE, March 12, 2004.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Additional Protocol Between the United

States of America and the Republic of Poland to the Treaty Between the United States of America and the Republic of Poland Concerning Business and Economic Relations of March 21, 1990, signed at Brussels on January 12, 2004. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Protocol.

I have already forwarded to the Senate similar Protocols for Romania and Bulgaria and now forward simultaneously to the Senate Protocols for the Czech Republic, Estonia, Latvia, Lithuania, Poland, and the Slovak Republic. Each of these Protocols is the result of an understanding the United States reached with the European Commission and these six countries that will join the European Union (EU) on May 1, 2004, as well as with Bulgaria and Romania, which are expected to join the EU in 2007.

The understanding is designed to preserve U.S. bilateral investment treaties (BITs) with each of these countries after their accession to the EU by establishing a framework acceptable to the European Commission for avoiding or remedying present and possible future incompatibilities between their BIT obligations and their future obligations of EU membership. It expresses the U.S. intent to amend the U.S. BITs, including the BIT with Poland, in order to eliminate incompatibilities between certain BIT obligations and EU law. It also establishes a framework for addressing any future incompatibilities that may arise as EU authority in the area of investment expands in the future, and endorses the principle of protecting existing U.S. investments from any future EU measures that may restrict foreign investment in the EU.

The United States has long championed the benefits of an open investment climate, both at home and abroad. It is the policy of the United States to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. This Protocol preserves the U.S. BIT with Poland, with which the United States has an expanding relationship, and the protections it affords U.S. investors even after Poland joins the EU. Without it, the European Commission would likely require Poland to terminate its U.S. BIT upon accession because of existing and possible future incompatibilities between our current BIT and EU law.

I recommend that the Senate consider this Protocol as soon as possible, and give its advice and consent to ratification at an early date.

GEORGE W. BUSH,
THE WHITE HOUSE, March 12, 2004.

ORDERS FOR MONDAY, MARCH 22, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 12 noon on Monday, March

22. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period for morning business until 2 p.m. with Senators permitted to speak for up to 10 minutes each.

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

PROGRAM

Mr. FRIST. Mr. President, the Senate will next convene on Monday, March 22. No rollcall votes will occur that day. However, the Senate will resume consideration of the Jumpstart JOBS bill, also known as FSC/ETI. We have made some progress on the bill. We interrupted the bill when we took up the budget bill this week.

Given the March 1 deadline on the FSC/ETI bill, which we have passed, and the implementation of sanctions, because that deadline has passed, I am concerned about our ability to pass this bill in a timely way. We must address this and it will be the first order of business when we return.

It is clear that extraneous amendments may be offered and that will further complicate our ability to finish this bill in a timely and orderly way. We have already spent several days on the bill. I encourage my colleagues to stay focused. Let's address the bill in an appropriate way to complete action.

Chairman GRASSLEY and Ranking Member BAUCUS are still hoping to pursue an agreement to finish the bill, although I must put everyone on notice that it may be necessary to file cloture to bring this important legislation to a close.

I should comment on the bill itself because people say, why the focus? Why the urgency? I mentioned the March 1 deadline—we are past the March 1 deadline—the renewed sanctions that are impacting trade right now.

The bill brings our trade laws and our trade into compliance with our trade agreements. Right now they are out of compliance. People agree they are out of compliance.

In addition, the bill provides badly needed reforms to further stimulate manufacturing growth. It is a manufacturing bill. On this floor every day we are talking jobs, manufacturing jobs and loss of jobs, and this bill hits directly at the heart of improving the environment for manufacturing in this country.

We all know the recession hit the manufacturing sector hard, probably the hardest of any other sector. Manufacturing costs in the U.S. have been going up. They are getting higher and higher, where they have not gone up elsewhere in the world.

We compete in a global economy. In my home State of Tennessee, exports have risen 26 percent since 1997, and ex-

ports support 232,000 jobs in Tennessee, and that is about 10 percent of our overall workforce in Tennessee.

Some people have suggested we close our borders to trade. To me, and I think to most people, that is a declaration of defeat. We are the most creative society in the world. We are the most innovative society in the world today. Workers in the United States lead productivity when compared to all other workers in the world. If we are allowed to compete on a level playing field, U.S. manufacturers can and will compete anywhere in the world, but U.S. manufacturers currently have this additional burden of unnecessary cost.

The WTO also approved the European Union sanctions against the United States. As I mentioned, that began on March 1. That is a 5-percent tariff, a 5-percent tax, a 5-percent sanction on a whole variety of U.S. goods. Again, that makes us less competitive. Thus, we need to act and we need to act now. We do not need a lot of nongermane, extraneous amendments applied to this bill. Let's stay focused on this bill itself.

It has gone up 5 percent. These tariffs will increase by 1 percent a month to a high of 17 percent next year if we do not act and repeal these export subsidies. That, again, is another cost to U.S. manufacturing.

There are pending amendments, and others may be offered that day, and therefore Members are expected to come to the floor for debate throughout the day. The next vote will occur on Tuesday. As always, we will notify Members when we lock in a time certain for that rollcall vote.

I do thank everyone one last time for their hard work and their long hours this week. I thank the pages. They have done a tremendous job for us, from early in the morning until late at night; to the police, to all the clerks, again from hours before we start until well after we complete our business on the floor; and to all those who are behind the scenes and keep this wonderful building and institution functioning. We do not have the opportunity to thank them very much, and I hope in telling that story of the importance of thank-yous, I do say thank-you to all the people who provide the infrastructure that allows us to carry out real democracy at its best.

ORDER FOR ADJOURNMENT

Mr. FRIST. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the provisions of S. Con. Res. 98, following the remarks of Senator NELSON for up to 10 minutes.

The PRESIDING OFFICER. The Senator from Florida.

NASA FUNDING

Mr. NELSON of Florida. Mr. President, my compliments to the majority leader on the way in which he offered

leadership for the Senate on a rather rigorous and very lengthy discussion of the budget over the last several days. My thanks to him for the hospitality he provided in the course of a very long evening. And my compliments and congratulations to the chairman of the Budget Committee, Senator NICKLES, and to Senator CONRAD, the ranking member, for the extraordinarily bipartisan fashion, as the hours of the evening wore on and as nerves began to fray, of keeping a calm and cool deliberation in the midst of 300 amendments that had been filed. Those 300 amendments would have kept us here all day today, all day Saturday, all day Sunday, and well into Monday. Yet with that leadership, the chairman and the ranking member were able to get reasonable minds to come together and find consensus and therefore withdraw many amendments. That was a testimony and showed the Senate working its will.

I asked for this time because I want to comment on one part of the budget that was passed last night. In the wee hours of the morning, an amendment was passed by unanimous consent, sponsored by Senator SESSIONS, Senator SHELBY, this Senator from Florida, and Senator GRAHAM of Florida. It was an amendment to bring the level of funding for NASA provided in the budget resolution up to the level requested by the President. This was no small amount of money, for what had come out of the Budget Committee, over my objection, was a cut to America's space program, as evidenced in the NASA budget, of \$631 million.

My pleas in the course of our deliberations in the Budget Committee to get the White House to step forward and to support its request for its full funding at a level of \$16.2 billion, went unheeded. Indeed, those pleas went unheeded for the White House to support its own budget on NASA all the way up through the end of the deliberations this entire week until around 1 o'clock this morning.

It was only when Senator SESSIONS and Senator SHELBY each put their foot down to let the chairman of the Budget Committee know that their votes on final passage were questionable unless that was brought up to the level of the President's request did we successfully get inserted into the budget an amendment that would bring NASA up to the \$16.2 billion.

Where was the White House and why did it take—and I give great credit to Senator SHELBY—that long, with my encouragement and that of others, to get the budget resolution amended so when this budget resolution is ultimately passed after conference with the House of Representatives there will not be such a financial straitjacket on NASA so the appropriations committees could not give the adequate funding to NASA? Yet that is what we were faced with at 1 o'clock this morning.

Where is the White House? That is the subject of my commentary. There

is no greater supporter in the Senate for America's space program than this Senator from Florida, who has had the great privilege of being a part of the space program. There is no greater need than the need at this particular time for the full funding of the President's request, with all that NASA has on its plate. It has, not only the new initiative announced by the President back in January of going back to the Moon and then eventually to Mars—of course, no funding really being provided for that, the major funding being provided in the President's announcement in the outyears—but all the other things on NASA's plate.

We had a major space disaster, the second one that occurred within the span of 17 years. Now, as a result of an excellent report brought forth by Admiral Geman's commission, we understand what specific things need to be done to fix the problem and to get back into flight. Of course, it is going to cost a lot of money to make those fixes, and indeed the downtime is costing NASA all kinds of turmoil and uncertainty.

For us not to have the White House step forward and say with vigor that they support their budget request for NASA caused us to just narrowly, by the skin of our teeth, avert a disaster of almost passing a budget resolution last night that was \$631 million under the President's request. There is too much riding on our exploring the heavens for this extremely prestigious and very productive program of the United States called America's space program. As we explore the heavens, we continue to push out the frontiers of our knowledge, and as we develop the technology to do that, that then translates into magnificent enhancement in the quality of our lives as the technology from the space program is applied to our normal, everyday lives.

I call on the White House. I call on the leadership of NASA. We cannot take for granted just because the President has announced a major new initiative that it is going to get funded. Indeed, we are swimming upstream. The immediate reaction of the American people to the President's initiative was they didn't support it. There is only one person who can lead the space program. That is the President or the Vice President. A Senator can't lead it. The administrator of NASA can't lead it, particularly on bold new initiatives. It has to be the White House that leads it.

I implore the White House and NASA to step forward and support your report. Otherwise, we are going to get into a situation where mistakes of omission are going to occur like almost occurred last night. Suddenly we are going to find ourselves with a final budget product that is going to straitjacket NASA with less funds than the President requested.

Now more than ever NASA needs those funds to return to flight as safely as possible. I say that because space flight is risky. But it is a risk worth

taking because of the expansion of our knowledge and the fulfilling of our desire in our inner souls to be explorers and adventurers, a characteristic of the American people.

I felt compelled to share these thoughts as one of the biggest boosters of the U.S. space program—indeed, the world's space program. For we are in an international venture with other nations of this world on the international space station, sharing various citizens of the world on different avenues, namely, American rockets through the space shuttle and European and Russian rockets on other space ventures.

It is important the White House back their request vigorously. I hope and I expect they will do so, and then we will continue to have an excellent space program.

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

ADJOURNMENT UNTIL MONDAY, MARCH 22, 2004

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until noon on Monday, March 22.

Thereupon, the Senate, at 2:18 p.m., adjourned until Monday, March 22, 2004, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate March 12, 2004:

THE JUDICIARY

WILLIAM H. PRYOR, OF ALABAMA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT, VICE EMMETT RIPLEY COX, RETIRED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS.

DEPARTMENT OF VETERANS AFFAIRS

MARY J. SCHOELEN, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS FOR THE TERM OF FIFTEEN YEARS, VICE JOHN J. FARLEY, III, TERM EXPIRING.

DEPARTMENT OF STATE

JACK DYER CROUCH II, OF MISSOURI, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ROMANIA.

FEDERAL MARITIME COMMISSION

JOSEPH E. BRENNAN, OF MAINE, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2008. (REAPPOINTMENT)

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER OF THE UNITED STATES COAST GUARD TO BE A MEMBER OF THE PERMANENT COMMISSIONED TEACHING STAFF OF THE COAST GUARD ACADEMY IN THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 188:

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 211:

To be captain

GEORGE W MOLESSA, 0000

To be lieutenant commander

KIMBERLY A CROKE, 0000
PATRICK FLYNN, 0000
LAURIE J MOSIER, 0000
JAMES E SCHEYE, 0000
PAUL D THORNE, 0000

To be lieutenant

CARISSA C APRIL, 0000
GLENN A BRUNNER, 0000
KENNETH R BRYAN, 0000
DAVID A BUTHERRIES, 0000
DONALD D DEIBLER, 0000
STEVEN R DOYLE, 0000
DOUGLAS E EGGLESTON, 0000
PAUL M GILL, 0000
MICHAEL P GULDIN, 0000

JONATHAN N HAMMOND, 0000
 LEONARD J HERSL, 0000
 KAREN JONES, 0000
 JEFFERY A KNYBEL, 0000
 BRANDON W LECHTHALER, 0000
 THOMAS C LINKE, 0000
 GLENN A MARTINEAU, 0000
 GREGORY A MASON, 0000
 MARIO L MERCADO, 0000
 PAUL K MUCHA, 0000
 JAMES E NOE, 0000
 JAMES A NOVOTNY, 0000
 RICHARD J PACIORKA, 0000
 FELICIA K RAYBON, 0000
 DAVID W SAUNDERS, 0000
 KEVIN J SHEEHAN, 0000
 WILLIAM J SIEBEN, 0000
 DAVID V SMITH, 0000
 JOHN P SWIDRAK, 0000
 BRUCE M TWEED, 0000
 TODD D VANCE, 0000
 PAUL T WASHLESKY, 0000
 DAVID S WILHELM, 0000
 HARRY L WILSON, 0000
 CHARLES A YATES, 0000
 ALAN L YELVINGTON, 0000
 JAMES R YOUNG, 0000
 DANIEL L YOUNGBERG, 0000
 CHRISTOPHER H ZORMAN, 0000

To be lieutenant junior grade

MARCUS E ALDEN, 0000
 JOHN G ALLEN, 0000
 NEAL E AMARAL, 0000
 KIMBERLY B ANDERSEN, 0000
 MATTHEW R ANDERSON, 0000
 LAHCEN I ARMSTRONG, 0000
 NICOLETTE A ARROYO, 0000
 JOHN H AXTELL, 0000
 RENE BAEZ, 0000
 FLAVIO E BALTAZAR, 0000
 TAB A BEACH, 0000
 DAVID S BENNETT, 0000
 KENNETH E BETHEA, 0000
 BRIAN R BETZ, 0000
 JAMES R BIGGIE, 0000
 IAN G BIRD, 0000
 TODD X BLOCH, 0000
 MICHAEL A BLOCK, 0000
 STEVEN M BONN, 0000
 CHRISTOPHER L BONNER, 0000
 MATTHEW T BOURASSA, 0000
 DANIEL L BREHM, 0000
 SHANE D BRIDGES, 0000
 JOHN W BRIGGS, 0000
 DARKEIM L BROWN, 0000
 STEPHANIE E BURNS, 0000
 ROBERT S BUTTS, 0000
 JEFFREY P CABELL, 0000
 GREGORY A CALLAGHAN, 0000
 JAMES C CAMPBELL, 0000
 ERIC M CARRERO, 0000
 JONATHAN A CARTER, 0000
 MARIE M CASTILLOBLETSO, 0000
 ANTHONY B CAUDLE, 0000
 SHERRI L CHAMBERLIN, 0000
 JEFFERY W CHAPMAN, 0000
 HAROLD W CHRISTENSEN, 0000
 JOHN J CHRISTENSEN, 0000
 BILLY J CLARK, 0000
 JONI L CLIFTON, 0000
 ADAM E COCHRAN, 0000
 THOMAS J COMBS, 0000
 CHARLES I COOK, 0000
 JOHN M CORBETT, 0000
 NATHAN E COWALL, 0000
 MICHAEL A CRIDER, 0000
 EDGARDO CRUZ, 0000
 CHRISTOPHER H DAILEY, 0000
 STEPHEN DAPONTE, 0000
 JOHN G DAUGHTRY, 0000
 JAY E DAVIS, 0000
 WILLIAM L DAVIS, 0000
 CHRISTOPHER J DELAMERE, 0000
 ETIENNE DELARIVA, 0000
 JOSHUA M DELON, 0000
 PATRICK C DILL, 0000
 DAVID D DIXON, 0000
 ELIZABETH L DOMINY, 0000
 ROBERT J DONNELL, 0000
 KENNETH W ELLER, 0000
 CHAD A FAIT, 0000
 BRIAN M FARMER, 0000
 MICHAEL R FRANKLIN, 0000
 JAMIE C FREDERICK, 0000
 WILLIAM A FRIDAY, 0000
 MATTHEW S FURLONG, 0000
 JAMES S GARLAND, 0000
 MICHAEL P GARVEY, 0000
 MARCUS G GHERARDI, 0000
 NICHOLAS E GILMORE, 0000
 CARY G GOWIN, 0000
 HAYDEN J GOLDMAN, 0000
 JASON M GRAD, 0000
 AARON L GROSS, 0000
 KENT D HALEY, 0000
 STEVEN J HALPIN, 0000
 JASON K HAMBY, 0000
 LUSHAN A HANNAH, 0000
 HEATHER E HANNING, 0000
 MICHAEL J HEGEDUS, 0000
 DERRICK F HENDRICKSON, 0000
 THOMAS G HICKEY, 0000
 DAVID S HILL, 0000
 JESSE C HOLSTON, 0000
 CHRISTOPHER M HOOPER, 0000

WALTER R HOPPE, 0000
 DEAN E HORTON, 0000
 SEAN P HUGHES, 0000
 JASON D INGRAM, 0000
 JUSTIN W JACOBS, 0000
 ROYCE W JAMES, 0000
 STEVEN F JENSEN, 0000
 ERIC D JOHNSON, 0000
 KAREN S JONES, 0000
 KAREN L JORDAN, 0000
 MICHAEL P KAHLE, 0000
 MAEVE K KEOGH, 0000
 LANCE C KERR, 0000
 TERRI J KINDNESS, 0000
 MATTHEW D KING, 0000
 ROBERT J KINSEY, 0000
 DAVID A KROENING, 0000
 JERRY J KRYWANCZYK, 0000
 RUSSELL M LANGHAM, 0000
 EDDIE LESANE, 0000
 DEBORAH S LINDQUIST, 0000
 WILLIAM S LONG, 0000
 RYAN E MACLEOD, 0000
 ANTHONY J MAFFIA, 0000
 WILLIAM L MAGNESS, 0000
 DAVID J MARRAMA, 0000
 ZACHARY S MATHEWS, 0000
 ERIC J MATTHIES, 0000
 ROBERT E MCCASKEY, 0000
 STEVEN J MCCULLOUGH, 0000
 LATARSHA S MCQUEEN, 0000
 MICHAEL D MCWILLIAMS, 0000
 WILLIAM L MEES, 0000
 ADAM C MERRILL, 0000
 DAVID P MERRIMAN, 0000
 TAMMY L MICHELLI, 0000
 BARRY J MILES, 0000
 KIMBERLY C MILLIGAN, 0000
 KEVIN T MORGAN, 0000
 MARK E MORIARTY, 0000
 KENNETH R MORTON, 0000
 ANDREW J A MOTTER, 0000
 PATRICK D MOUNSEY, 0000
 CHARLOTTE MUNDY, 0000
 SCOTT A MURPHY, 0000
 CRAIG E MURRAY, 0000
 DAVID NEGRONALICEA, 0000
 MARK C NELSON, 0000
 MONTY NIJJAR, 0000
 LOAN T OBRIEN, 0000
 CRAIG T OLESNEVICH, 0000
 THELMA ORTIZCABANTAC, 0000
 HEATHER M OSBURN, 0000
 RONALD A OWENS, 0000
 PHILBERT C PABELLON, 0000
 ANTHONY I PAOPAO, 0000
 ERIC G PARA, 0000
 BRANDY N PARKER, 0000
 JARED A PARROTT, 0000
 GREGORY L PARSONS, 0000
 BRIAN A POTTER, 0000
 LAWRENCE G QUEDADO, 0000
 ANTHONY J QUIRINO, 0000
 SCOTT A RAE, 0000
 EARNEST RAWLES, 0000
 JASON D RIMINGTON, 0000
 DUANE B RIPLEY, 0000
 NELSON Y RIVERA, 0000
 LEN M ROBINSON, 0000
 NICOLE D RODRIGUEZ, 0000
 SCOTT P ROOKE, 0000
 BLANCA ROSAS, 0000
 FRANCIS C SAGER, 0000
 MATTHEW G SANFORD, 0000
 NELSON R SANTIAGO, 0000
 MARK C SAWYER, 0000
 SHADRACK L SCHEIRMAN, 0000
 STEVEN A SCHULTZ, 0000
 MARC R SENNICK, 0000
 THOMAS A SHULER, 0000
 MARTIN C SIMPSON, 0000
 STEVEN A SKAGGS, 0000
 JAMES C SMITH, 0000
 BRYSON T SPANGLER, 0000
 WILLIAM R SPORTSMAN, 0000
 HANS P STAFFELBACH, 0000
 JONATHAN K STEHN, 0000
 JAMES B STELLFLUG, 0000
 WILLIAM E STRICKLAND, 0000
 BRANDON J SULLIVAN, 0000
 TIMOTHY F SUTTON, 0000
 CHRISTOPHER W SWEENEY, 0000
 KRIS J SZCZECHOWICZ, 0000
 STEVEN M TALICK, 0000
 RONALD S TEAGUE, 0000
 KELLY A THORKILSON, 0000
 LEE D TITUS, 0000
 KEVIN L TROWBRIDGE, 0000
 ROBERT C TUCKER, 0000
 MARC E TUNSTALL, 0000
 JEFFREY M VAJDA, 0000
 ANDREW J VANSKIE, 0000
 CHRISTOPHER D VARGO, 0000
 OMAR VAZQUEZ, 0000
 XAIMARA VICENCIOROLDAN, 0000
 JEREMY J WAHRMUND, 0000
 LISA D WALL, 0000
 WILLIAM C WALSH, 0000
 MARC D WARREN, 0000
 ROBERT D WEBB, 0000
 HOLLY A WENDELIN, 0000
 RYAN H WILKINSON, 0000
 WINSTON D WOOD, 0000
 YAMASHEKA Z YOUNG, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

DAVID W PUVOGEL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

TERRANCE J. WOHLFIEL, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

LORENA A. * BAILEY, 0000
 JEFFREY C. * BALL, 0000
 SARA K. * BERNDTSON, 0000
 PAUL R. BREZINSKI, 0000
 DAVID A. CAIN, 0000
 RICHARD A. CRESPO, 0000
 TERENCE T. * CUNNINGHAM IV, 0000
 JACKIE L. DAY, 0000
 ANGLINA T. * DUNBAR, 0000
 RICHARD K. * ELMORE, 0000
 LEIGHANN ERDMAN, 0000
 FRED K. * FLOWERS JR., 0000
 MICHAEL D. FOUTCH, 0000
 PAOLA WHITE * FRANKLIN, 0000
 MARY A. * GARBOWSKI, 0000
 KYLE W. * GIBSON, 0000
 RASHON E. * GILBERTSTEELE, 0000
 LOUIS P. * GOLER SR., 0000
 ANGEL M. * GONZALEZ, 0000
 SHARON A. * GOODWIN, 0000
 CHRIS A. * GRIPPO, 0000
 MARGUERITE M. * GUILLORY, 0000
 EYVN J. * HELBER, 0000
 RODNEY L. HOLMES, 0000
 MIN YEN * JUNG, 0000
 SANDRA E. * KEESSE, 0000
 EDWARD J. * LAGROU, 0000
 CURTIS A. * LAMSON, 0000
 WILLIAM R. * LINDQUIST, 0000
 HOWARD WAINE * LONG, 0000
 GAVIN W. * MASON, 0000
 RUBEN A. * MATOS, 0000
 JOHN W. * MCKENNA, 0000
 DERRICK J. * MCKERCHER, 0000
 DEANAN M. * MEJIA, 0000
 JOHN J. * METCALF JR., 0000
 THOMAS L. * MOORE, 0000
 DOROTHY L. * OAKES, 0000
 TIMOTHY R. * OHRENERBERGER, 0000
 ERIC L. * PEPELMAN, 0000
 TYLER W. * SANDERS, 0000
 DAVID A. * SCHLEVIENSKY, 0000
 KEVIN P. * SEELLY, 0000
 SAM L. * SILVERTHORNE JR., 0000
 BRANDON S. * SMITH, 0000
 MICHELLE A. * STEPHENS, 0000
 THOMAS A. * STEWART, 0000
 PAUL J. * TOH JR., 0000
 THOMAS S. * VANDERHOOF, 0000
 JACOB A. * VANSANT, 0000
 DAVID R. * WATSON, 0000
 DAVID R. * WELLS, 0000
 REGINA LEE * WOODARD, 0000
 BRYAN E. * WOOLLEY, 0000
 BRENDA L. * YI, 0000
 JASON P. * ZIMMERER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

TRAVIS R. * ADAMS, 0000
 MATTHEW D. ALBRIGHT, 0000
 JAMES C. * ALLEN IV, 0000
 SUSAN E. * ANSPACH, 0000
 LISA M. * BADER, 0000
 JOHN A. * BARNETT, 0000
 KENNETH J. * BARON, 0000
 WILLIAM B. * BELSER, 0000
 JULIE A. * BEST, 0000
 BRETT L. * BISHOP, 0000
 LISA R. * BLACKMAN, 0000
 BRIAN G. * BLALOCK, 0000
 SAMANTHA E. * BLANCHARD, 0000
 KIMBERLY C. * BOEHM, 0000
 NATALIE K. * BONETTI, 0000
 JAMES E. * BONSON JR., 0000
 BRADLEY G. * BOWERS, 0000
 JOHN C. * BOWERS JR., 0000
 LEE A. * BOXBERGER, 0000
 MICHAEL D. * BUSBY, 0000
 LAURA L. * BUTLER, 0000
 ROBERT K. * CAMPBELL, 0000
 COLETTE M. * CANDY, 0000
 ROSE M. * CANTU, 0000
 MICHAEL T. * CARTWRIGHT, 0000
 JAMES S. * CAVANAUGH, 0000
 CLARA F. * CHAMBERS, 0000
 LORI J. * CHUPP, 0000
 MICHAEL L. * CLARK, 0000

ELITA L. * CONALLY, 0000
 VICTORIA H. * COOMES, 0000
 CHRISTOPHER M. * CUTLER, 0000
 BRYAN M. * DAVIDSON, 0000
 JASON A. * DEESE, 0000
 WADE R. * DEMORDAUNT, 0000
 DOMECKA A. * DIXON, 0000
 ANNE C. * DOBMEYER, 0000
 SAMUEL S. * DUTTON, 0000
 ROBERT M. ENINGER, 0000
 ROY R. * ESTRADA, 0000
 TONYA R. * EVERLETH, 0000
 VINCENT D. * FALLS, 0000
 DIANE R. * FINCH, 0000
 PATRICIA J. * FINKENBERG, 0000
 BRIAN M. FITZGERALD, 0000
 BRIAN K. * FOUTCH, 0000
 TOLANI I. * FRANCISCO, 0000
 BRENDA L. * FRYE, 0000
 CELENE A. * FYFFE, 0000
 TIMOTHY P. * GACIOCH, 0000
 TIMOTHY A. * GAMEROS, 0000
 JOHN * GRAVGAARD, 0000
 PATRICK L. * GRAY, 0000
 JULIE V. * GULL, 0000
 ALLISON C. * HANAUER, 0000
 VIRGINIA L. * HAYS, 0000
 NICOLE R. HENKELMAN, 0000
 ARIANNE J. * HENRYKROLL, 0000
 STEVEN P. * HIGGINS, 0000
 MICHAEL R. * HOBSON, 0000
 WILLIAM E. * HUBBARD JR., 0000
 ANGELA M. * HUDSON, 0000
 ROBERT P. * IKERD, 0000
 SHELDON L. * JACKSON, 0000
 BRIDGET M. * JACKSONOAKLEY, 0000
 ANTHONY J. * JARECKE, 0000
 MIA J. * JENNINGS, 0000
 ROBIN J. * JOHNSON, 0000
 JACQUELINE A. * JONES, 0000
 RODNEY M. * JORSTAD, 0000
 WAIKWONG * KAN, 0000
 TAMMY C. * KARAMARINOV, 0000
 GLENN L. * LAIRD, 0000
 JAMES L. * LAMUNYON, 0000
 MARK W. * LEHMAN, 0000
 CHRISTINA F. * LITTLE, 0000
 BRIAN E. * LOGUE, 0000
 MICHELLE R. * LOPER, 0000
 DANIEL J. * LOVELESS, 0000
 JENNIFER J. * MASINO, 0000
 SHANNON S. MCDONALD, 0000
 TROY E. * MCGILL, 0000
 ROBIN E. * MITCHELL, 0000
 JOSE L. * MONTANEZ, 0000
 CURTIS W. * MORROW, 0000
 SANDY * MOY, 0000
 SOHRAB M. * NEJAD, 0000
 HEATHER A. * NELSON, 0000
 PAMELA L. * NOVY, 0000
 MICHAEL H. * OSTERHOUDT, 0000
 ROBERT K. * OSULLIVAN, 0000
 DEANNA S. * PEKAREK, 0000
 TREVOR S. * PETROU, 0000
 STEVEN C. * PIEKARCZYK, 0000
 ROBERT K. * POHL JR., 0000
 MARK A. * POMERINKE, 0000
 DAVID L. * PUGH, 0000
 MARIA L. * PUGIA, 0000
 GERARDO * RAMOS, 0000
 DAVID J. * REYNOLDS, 0000
 MICHAEL B. * ROFER, 0000
 RICHARD I. * SAYLOR, 0000
 BRADLEY J. * SCHULTE, 0000
 JERILYN M. * SCHWEAR, 0000
 STANLEY M. * SEARCY, 0000
 MATTHEW J. * SHIM, 0000
 JOHN R. * SHIRLEY, 0000
 JEANA L. * SKORA, 0000
 MICHAEL B. * SMITH, 0000
 DEREK J. * SPETEN, 0000
 JESSICA R. * SPITLER, 0000
 BERNADETTE M. * STEELE, 0000
 JULIE M. STOREY, 0000
 NISARA * SUTHON, 0000
 JAMES A. * SUTPHEN, 0000
 PHILIP E. * TOBIN, 0000
 NHUT M. * TRAN, 0000
 PETER T. * TRANG, 0000
 ROBERT J. * VANECEK, 0000
 JORGE G. * VARELA, 0000
 JOSEPH M. * VINCH JR., 0000
 MELODY H. * VINSON, 0000
 THOMAS W. * WATERS, 0000
 DAVID G. WATSON, 0000
 CLAUDINE C. N. * WEGA, 0000
 CHANTAY P. * WHITE, 0000
 LISA C. * WHITNEY, 0000
 DELORIA R. * WILSON, 0000
 KEITH R. * WILSON, 0000
 MICHELLE D. * WINE, 0000
 ILAINA M. * WINGLER, 0000
 STEPHEN P. * WOLF, 0000
 GARY C. * WRIGHT, 0000
 WENDY J. * WYSE, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

LAUREN F. * AASE, 0000
 MICHELLE D. * AASTROM, 0000
 LORI A. * ADAMS, 0000
 MAURICIA P. * ALO, 0000

DAVID E. * AMATO, 0000
 CARMEN * ARGUELLES, 0000
 LAURA B. * ARMS, 0000
 EDWARD J. * ARNOLD, 0000
 JOHN F. * BAER, 0000
 JOSEPH D. * BALL, 0000
 KATIE A. BARTLETT, 0000
 EARL J. * BARTOLOMEO, 0000
 CAROLYN E. * BECKER, 0000
 SUSAN K. * BLOCK, 0000
 ANNETTE A. BOWER, 0000
 MARY L. * BROOKINS, 0000
 RUBY M. * BROWSKOWSKILOVEDAY, 0000
 RONNA K. * BRUCE, 0000
 MARYJO * BURLEIGH, 0000
 THAD V. * BURLEY, 0000
 MICHELLE K. * BUTLER, 0000
 BARBARA A. * CAIN, 0000
 MEGELA E. * CAMPBELL, 0000
 SHELLEY A. * CAMPBELL, 0000
 DANNY R. * CANLAS, 0000
 TONDA J. * CANOTE, 0000
 RUSSELL D. * CARTER, 0000
 LESLIE A. * CHRISTOPHER, 0000
 LISA M. * CIESKO, 0000
 ADRIENNE M. * CLARK, 0000
 ROBIN A. * CODY, 0000
 WILLIAM P. * COFFEY, 0000
 SUSAN K. * COLCLASURE, 0000
 SCOTT A. * CRISS, 0000
 ROBERT P. * CUNNINGHAM, 0000
 PAMELA E. DARBYSHIRE, 0000
 JACQUELINE A. * DAVIS, 0000
 JEFFREY M. * DAXE, 0000
 KEITH A. * DEARDORFF, 0000
 JULIET T. * DEGUZMAN, 0000
 MARIANN LOUISE * DOWD, 0000
 PAUL M. * EFFERTZ, 0000
 MARK L. EVANS, 0000
 BENJAMIN * FELICIANO, 0000
 JANICE P. * FITTEN, 0000
 MICHAEL W. * FRANK, 0000
 JEANETTE L. * FRANTAL, 0000
 RUSSELL L. * FRANTZ JR., 0000
 LAURIE L. * FRAZIER, 0000
 CHERRON R. * GALLUZZO, 0000
 TRICIA ROCHELLE * GARCIA, 0000
 JON B. * GENO, 0000
 ERWIN N. * GINES, 0000
 FLORDELIZA D. GOLETA, 0000
 COLLEEN P. * GONZALEZ, 0000
 LORBAINE S. * GRAVLEY, 0000
 CAROLYN D. * GREEN, 0000
 WILLIAM J. * GRES, 0000
 DALE L. * GRIFFIS, 0000
 ROBERT A. * GROVES, 0000
 TAMMY L. * HADFIELD, 0000
 ABDOL M. * HAJIAGHAMOSEN, 0000
 ANNIE L. * HALL, 0000
 JOSEPH P. * HALLOCK, 0000
 GEORGE * HARITOS, 0000
 MICHELLE M. * HARMON, 0000
 KENNY L. * HARRYMAN, 0000
 MARY J. * HARVEY, 0000
 DAVID D. * HEITZMAN, 0000
 LORROSE * HINDMAN, 0000
 CYNTHIA M. * HINTZ, 0000
 LEIGH I. HOLT, 0000
 BARRY R. * HOLTE, 0000
 SANDRA A. * HOULIHAN, 0000
 BRIAN S. * HUBBARD, 0000
 JAMES M. * HURST, 0000
 GACQUETTE R. * JENNINGS, 0000
 MICHELLE L. * JOHNSON, 0000
 DEBORAH K. JONES, 0000
 ELIZABETH C. * KATT, 0000
 CATHERINE J. * KEPHART, 0000
 KAREN A. * KIRK, 0000
 CHRISTINE A. * KRESS, 0000
 PAUL J. * LANGEVIN, 0000
 ROBERT M. * LEADEBETER, 0000
 MICHELE M. * LEESEBERG, 0000
 KARINA L. * LISTER, 0000
 APOLONIO O. * LUNOD JR., 0000
 LIONEL M. * LYDE, 0000
 KIMBERLY M. * MACPHERSONEVANS, 0000
 EMMA J. * MCCLAIN, 0000
 ROBERT D. * MCCURRY, 0000
 JEFFREY W. * MCKAMEY, 0000
 ROBERT P. * METCALF, 0000
 JEFFREY S. MILLER, 0000
 SHAWNA L. * MILLS, 0000
 CHERYL J. * MINCEY, 0000
 JOANN V. * MITCHELL, 0000
 EBONY * MOOREFIELD, 0000
 DEBORAH S. * MORTON, 0000
 MELISSA L. * MOUCHELETTE, 0000
 SARA O. * MYERS, 0000
 KELLY C. * NADER, 0000
 ANN R. * NEAL, 0000
 DEBRA S. * NICHOLS, 0000
 KELLI A. * NIEDZWIECKI, 0000
 CHRISTINE S. * NOVAK, 0000
 BRIAN T. * OCONNOR, 0000
 CHRISTOPHER T. * PAIGE, 0000
 TERESA G. * PARIS, 0000
 BRIAN S. * PARKER, 0000
 CONRAD A. * PATRAC, 0000
 JO ANN * PATTERSON, 0000
 DAVID L. * PERKINS, 0000
 NICHOLAS R. * PETRONE, 0000
 JULIE A. * PIERCE, 0000
 TAMMY D. * POKORNEY, 0000
 TINA M. * PORTER, 0000
 MICHAEL A. * PRICE, 0000
 APRIL A. * QUILLIN, 0000
 AMY S. * QUIRKE, 0000

MICHAEL * REBARCHAK, 0000
 RUSSELL D. * RHOADES, 0000
 RICARDO * RODRIGUEZ, 0000
 LISANDRA * ROJASKNOTTS, 0000
 GORDON K. * ROSS, 0000
 CHARLES T. * RUSSELL, 0000
 ELENA R. * SCHLENKER, 0000
 MAGGIE H. * SCHUMACHER, 0000
 BRADLEY D. * SCHWITTERS, 0000
 ANTOINETTE M. * SHINN, 0000
 CLYNISE D. * SIMPSON, 0000
 YVONNETTE C. * SMITH, 0000
 ROBERT M. * SOUTHER, 0000
 JERRY D. * SPARLING, 0000
 IVETTE * STERLING, 0000
 HEIDI M. * STEWART, 0000
 PATRICK W. * STILLEY, 0000
 DONNA A. * STORY, 0000
 CHRISTOPHER E. * STRANE, 0000
 LARRY A. * TODD, 0000
 JENNIFER L. * TRINKLE, 0000
 STEPHANIE M. * TURNER, 0000
 MICHELLE M. * VAUGHAN, 0000
 RENEE G. * VINCENT, 0000
 KIMBERLY A. * VOLLMER, 0000
 SHEELAH Z. * WALKER, 0000
 RICHARD E. * WALLEN, 0000
 NANCY A. WALTER, 0000
 JENNIFER M. * WALTERS, 0000
 MICHAEL D. * WASCHER, 0000
 JOHN J. * WEATHERWAX, 0000
 SHERI A. * WEBB, 0000
 MARLIN G. * WEICHEL, 0000
 CYNTHIA J. * WEIDMAN, 0000
 DEBRA I. * WILLETT, 0000
 HAZEL E. * WRIGHT, 0000
 PAULO D. * YARBROUGH, 0000
 DONNA E. * YOUNG, 0000
 SUSAN E. * YOUNG, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

STEPHEN M. * ALLEN, 0000
 DAVID LEWIS * BUTTRICK, 0000
 ALAN * CHQUEST, 0000
 JANIS A. B. * DASHNER, 0000
 CALVIN D. * DIXON, 0000
 RIVES M. * DUNCAN, 0000
 CLYDE * DYSON, 0000
 RANDALL W. * ERWIN, 0000
 RICHARD * FITZGERALD, 0000
 MICHAEL E. * GOECKER, 0000
 BRYAN S. * HOCHHALTER, 0000
 JOHN P. * KENYON, 0000
 MAX B. T. * OMANA, 0000
 BOYD C. * SHORT JR., 0000
 JOHN F. * TILLERY, 0000
 SHELIA M. WILSON, 0000
 THEADORE L. * WILSON, 0000

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

CAROL A. CULLINAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

To be major

CHRISTOPHER B. SOLTIS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JEFFREY A. TONG, 0000
 TIMOTHY M. WARD, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

JAMES M. GAUDIO, 0000
 BEVERLY A. HERARD, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

MICHAEL J. HARRIS, 0000
 ROBERT L. LEGG, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

DAVID N. AYCOCK, 0000
 DAVID E. LINDBERG, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be major

MICHAEL T. LAWHORN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be major

DERRON A. ALVES, 0000
 JENNIFER L. CHAPMAN, 0000
 NICOLE A. CHEVALIER, 0000
 KARI J. CHILDS, 0000
 CHRISTOPHER S. GAMBLE, 0000
 JAMES T. GILES, 0000
 MADONNA M. HIGGINS, 0000
 SHELLEY P. HONNOLD, 0000
 KIMBERLY LAWLER, 0000
 MICKEY G. MOPPIN, 0000
 DOUGLAS S. OWENS, 0000
 MICHELLE R. PEACOCK, 0000
 PATRICIA RASMUSSEN, 0000
 CYLE R. RICHARD, 0000
 DOUGLAS D. RILEY, 0000
 AMY L. SANDERS, 0000
 CARL I. SHAIA, 0000
 DEIDRA J. SHUCKLEE, 0000
 MATT S. TAKARA, 0000
 ALISA R. WILMA, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be major

JOEL R. BACHMAN, 0000
 GARRY D. BERNDT, 0000
 KURT BROWER, 0000
 KEITH A. BUTLER, 0000
 WILLIAM L. CRAWFORD, 0000
 KATHY L. DAIGLE, 0000
 DAVID L. DUNDORE, 0000
 DAVID A. FREEL, 0000
 LISA M. GIESE, 0000
 NORMAN W. GILL III, 0000
 TOMMY J. HARRISON, 0000
 ROBERT D. HAYS, 0000
 CYNTHIA A. JONES, 0000
 MICHELE R. KENNEDY, 0000
 MARTY R. LITCHEFIELD, 0000
 CLIFTON D. LOYD, 0000
 MICHELLE A. MARDOCK, 0000
 LEONARD S. MCNEIL, 0000
 JAMES T. MILLS III, 0000
 ROMAN B. REYES, 0000
 DENIS L. ROBERT, 0000
 THOMAS M. RUEDIGER, 0000
 DALE J. RUSH, 0000
 SHANE F. SPEARS, 0000
 MICHAEL E. THOMPSON, 0000
 JOHN VONDRUSKA, 0000
 SHERRY L. WOMACK, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be major

CURTIS J. *ABERLE, 0000
 ROY *ADDINGTON, 0000
 ILSE K. *ALUMBAUGH, 0000
 CATHERINE Y. ANDERSON, 0000
 CRISTINA R. BAGAYMETCALF, 0000
 TAKAKO L. *BARRELL, 0000
 SIMONA A. *BLACK, 0000
 BRIDGETT R. BRANDT, 0000
 CHERYL L. *BROOKS, 0000
 KRISTIN A. *BROWN, 0000
 JACQUELINE L. *CARLIN, 0000
 GLEN E. *CARLSSON, 0000
 PAMELA J. CARTER, 0000
 DAVID M. CASSELLA, 0000
 AMAL *CHATILA, 0000
 MICHAEL B. *CLINE, 0000
 LASHANDA C. *COBBS, 0000
 DEWEY R. *COLLIER II, 0000
 WAYNE E. DARSOW, 0000
 HARRIET D. *DAVIS, 0000
 JOHNNY L. *DENNIS SR., 0000
 JOEL M. *EHLER, 0000
 DARYL L. *ELDER, 0000
 AMANDA R. FORRISTAL, 0000
 MICHAEL K. *FRIZELLE, 0000
 CYNTHIA H. *GAIA, 0000
 CAROLYN B. GALES, 0000
 BETTY K. GARNER, 0000
 RACHEL *GEORGE, 0000
 JOHN J. *GODESA, 0000
 CLYDE L. HILL JR., 0000

KATHI J. *HILL, 0000
 CHRISTOPHER L. *HOLMAN, 0000
 SUSAN G. HOPKINSON, 0000
 CRYSTAL L. HOUSE, 0000
 LISA M. JOHNSON, 0000
 MARJORIE A. *JOHNSON, 0000
 REBECCA L. *KIBLER, 0000
 SARAH J. KRAJNIK, 0000
 ROBERT E. KUTSCHMAN, 0000
 ERIC J. LEWIS, 0000
 KELLY J. *LONGENECKER, 0000
 MARK A. *MACDOUGALL, 0000
 ELIZABETH A. *MANN, 0000
 LEROY *MARKLUND, 0000
 KRISTI A. MASTERTSON, 0000
 PATRICIA L. *MCCORKLE, 0000
 LORIAN R. MCKEEVER, 0000
 KRISTAL C. *MELVIN, 0000
 JOHN F. *MEYER JR., 0000
 LISA E. *MILLER, 0000
 CAROLYN R. *MITCHELL, 0000
 PAUL B. MITTELSTEADT, 0000
 ANNE M. *MITZAK, 0000
 STEPHEN L. *MOTEN, 0000
 MICHAEL S. *MURPHY, 0000
 ANN M. *NAYBACK, 0000
 ERIC R. *NELSON, 0000
 MICHELLE A. NEYSMITH, 0000
 LINDA I. NOBACH, 0000
 BENJAMIN O. *ONWUDIACHI, 0000
 JANA J. ORTIZ, 0000
 VICTORIA J. *OWENS, 0000
 JOHN D. *PATTERSON, 0000
 PAULINE A. *PECHNIK, 0000
 WENDY M. PERRY, 0000
 DOUGLAS A. PHILLIPS, 0000
 SHARI D. *PLEASANT, 0000
 KATHARINE O. *POLLITT, 0000
 MARTHA L. *POSEY, 0000
 ANDREW A. POWELL, 0000
 EVELYN J. QUAIN, 0000
 NANCY L. RABAGO, 0000
 LESA B. *RATHJEN, 0000
 KATHY *REYNOLDS, 0000
 BRENDA A. RICHARDS, 0000
 JOAN K. *RIORDAN, 0000
 VINA D. RIVERA, 0000
 MICHAEL SALMI, 0000
 KENNETH D. *SANDERS, 0000
 THOMAS R. *SAWYER, 0000
 JENNIFER M. *SCHMALTZ, 0000
 TOD W. SCHNETZLER, 0000
 MELAINA E. *SHARPE, 0000
 SHIRLENE Y. SHEARS, 0000
 ANGELA M. *SIMMONS, 0000
 JAMES E. SIMMONS, 0000
 W. B. SIMS, 0000
 MICHELLE L. SNYDER, 0000
 ROBERT J. STAGGS, 0000
 KIMBERLIE A. *STATLER, 0000
 ANGELA L. STONE, 0000
 ASTRID D. *STURM, 0000
 KYLEE V. SUTHERLIN, 0000
 JOHN E. *TAYLOR, 0000
 MAI T. *TRAN, 0000
 BRIAN K. TRAWICK, 0000
 MELISSA A. WALLACE, 0000
 BRETT L. *WELDEN, 0000
 CARLA M. *WHITE, 0000
 HEIDI I. WHITESCARVER, 0000
 GRACE F. WIETING, 0000
 MORRIS E. *WILDER, 0000
 CORY M. *WILLIAMS, 0000
 RONALD V. WILSON JR., 0000
 PAMELA M. *WULF, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK(*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be major

GINA M. *AGRON, 0000
 RONALD M. *ATKINSON SR., 0000
 JAMES R. *AUVIL, 0000
 BARBARA J. *BACHMAN, 0000
 KEVIN R. *BASS, 0000
 SHANNON D. *BECKETT, 0000
 JOSEPH M. *BECKMAN, 0000
 JOHN D. *BELEW, 0000
 SHARON L. *BENSON, 0000
 ENRICO Z. BERMUDEZ, 0000
 AMY H. *BLACK, 0000
 LOLITA M. *BURRELL, 0000
 JONATHAN B. *BUTLER, 0000
 JENNIFER J. *CAMP, 0000
 JOSE E. *CAPOAPONTE, 0000
 ROBERTO *CARDENAS, 0000
 CASEY P. *CARVER, 0000
 BEVERLY S. CASIANO, 0000
 STACEY L. *CAUSEY, 0000
 CYNTHIA Y. CHILDRESS, 0000
 WILLIAM D. *CLYDE, 0000
 ANGEL F. *COLON, 0000
 MICHAEL S. *COULTHARD, 0000
 JEFFERY S. *CROLEY, 0000

LEONARD A. *CROMER JR., 0000
 NOEL A. *CUFF, 0000
 CHRISTOPHER J. *DAVID, 0000
 AVERY E. DAVIS, 0000
 GAYLE E. *DAVIS, 0000
 WILLIE E. DAVIS, 0000
 JAMES C. DEAK, 0000
 FRED L. *DELA CRUZ, 0000
 JASON B. *DELEEUW, 0000
 LEONARDO *DENARO, 0000
 SCOT A. *DOBOSZENSKI, 0000
 PATRICK A. DONAHUE, 0000
 CURTIS W. *DOUGLASS, 0000
 CHRISTOPHER F. *DRUM, 0000
 ERIC C. *DRYNAN, 0000
 MARJORIE Y. *DUFF, 0000
 RAQUEL D. *ERNEST, 0000
 MARLA J. *FERGUSON, 0000
 DONALD E. *FINE JR., 0000
 JAMES T. *FLANAGAN JR., 0000
 RICHARD G. *FORNILLI, 0000
 FRANCIS M. *FOTA, 0000
 ADRIAN GAMEZ, 0000
 PATRICK A. *GARLAND, 0000
 TOBIAS J. *GLISTER, 0000
 RONALD T. *GODING, 0000
 FRANK T. *GORING, 0000
 MARK D. *GRAY, 0000
 ALYSON M. *HAGAN, 0000
 JORDAN V. HENDERSON, 0000
 MICHAEL S. HOGAN, 0000
 MICHAEL S. *HUGHES, 0000
 JENNIFER M. *HUMPHRIES, 0000
 THOMAS L. HUNDLEY, 0000
 MICHAEL F. *INGRAM, 0000
 ROBERT E. *JACKSON, 0000
 CRAIG M. *JENKINS, 0000
 GREGORY A. *JOHNSON, 0000
 THOMAS A. *JONES, 0000
 TATHETRA M. *JOSEPH, 0000
 STEPHEN R. KECK, 0000
 DENNIS L. KELLEN, 0000
 SAMUEL W. *KOONCE, 0000
 DIRK D. *LAFLEUR, 0000
 JAMES E. LEE, 0000
 ROBERT *LENZA, 0000
 PAUL J. LYONS, 0000
 LYNN E. MARM, 0000
 DAVID A. *MARQUEZ, 0000
 TERRY M. *MARTINEZ, 0000
 ERIC M. *MCCLUNG, 0000
 DEBORAH R. *MCCOY, 0000
 JENNIFER J. *MCDANNALD, 0000
 DENNIS MCGURK, 0000
 DEBRA J. *MCNAMARA, 0000
 JEFFREY A. *MCNEIL, 0000
 CARZELL *MIDDLETON, 0000
 CHERYL G. *MOORE, 0000
 ROBERT C. MOORE, 0000
 TODD J. *MOULTRIE, 0000
 SCOTT A. MOWER, 0000
 JOHANNES H. *NAUDE, 0000
 SCOTT H. *NEWKIRK, 0000
 ERIC J. *NEWLAND, 0000
 KIMTHOA T. *NGUYEN, 0000
 SCOTT M. *NOWICKI, 0000
 MATTHEW J. *OTTING, 0000
 JOHN S. *PEARSON JR., 0000
 ERIC E. *POULSEN, 0000
 ROBERT D. *PRINS, 0000
 ASIM A. *RAJA, 0000
 MURRAY M. *REEFER JR., 0000
 JAMES L. REYNOLDS, 0000
 SCOTT W. *RIDDELL, 0000
 JOHN C. *ROCKWELL, 0000
 JONATHAN C. RUWE, 0000
 MICHAEL *SALVITTI, 0000
 THERESA E. SAVILLE, 0000
 LISA W. *SCARBOROUGH, 0000
 DAVID W. SEED, 0000
 AATIF M. *SHEIKH, 0000
 STEPHEN C. *SHERRIDAN, 0000
 BRADLEY T. SHEIELDS, 0000
 STEVEN E. *SHIPLEY, 0000
 TANYA A. SILLER, 0000
 DAVID L. *SLONIKER, 0000
 COREY L. SMALLS, 0000
 JOHN P. *STALEY, 0000
 MARK A. *STEVENS, 0000
 GEORGE E. *STOPPLECAMP, 0000
 AUDRA L. TAYLOR, 0000
 JOSEPH E. THEMANN, 0000
 KELLY M. *THOMSON, 0000
 CHRISTOPHER M. *TODD, 0000
 CHARLES L. *UNRUH, 0000
 KEVIN W. *WATTS, 0000
 JOSEPH K. WEAVER, 0000
 JONATHAN R. *WEBB, 0000
 JOHN E. *WHITE, 0000
 JASON F. *WILD, 0000
 RICHARD A. *WILSON, 0000
 SETH J. *WINTROUB, 0000
 SCOTT C. *WOODARD, 0000
 DEREK O. *ZITKO, 0000
 JEFFREY V. ZOTTOLA, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant

HUGH B BURKE, 0000
SHANE D COOPER, 0000
TIMOTHY E FRENCH, 0000
JAMES L MARSH, 0000
DANIEL J MCCOY, 0000
STEVEN E MILEWSKI, 0000
JAMES T MILLS, 0000
HEATHER A WATTS, 0000

WILLIAM H WEILAND, 0000
JEANINE B WOMBLE, 0000

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

BRUCE M. FREDERICKSON, 0000
NEIL R. HANSEN, 0000
ARTHUR W. HINAMAN, 0000
WILLIAM A. PETTY, 0000

WITHDRAWAL

Executive message transmitted by the President to the Senate on March 12, 2004, withdrawing from further Senate consideration the following nomination:

ONE NOMINATION IN THE COAST GUARD RECEIVED BY THE SENATE ON JANUARY 28, 2004, BEGINNING WITH GLENN M. SULMASY.