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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, June 17, 2002, at 12:30 p.m.

Senate

FRIDAY, JUNE 14, 2002

The Senate met at 9 a.m. and was called to order by the Honorable BLANCHE L. LINCOLN, a Senator from the State of Arkansas.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of this Nation and Lord of our lives, we thank You for the outward symbols of inner meaning that remind us of Your blessings. The sight of our flag stirs patriotism and dedication. It reminds us of Your providential care through the years, of our blessed history as a people, of our role in the unfolding of Your American dream, and of the privilege we share living in this land.

Today, as we celebrate Flag Day, we repledge allegiance to our flag and recommit ourselves to the awesome responsibilities that You have entrusted to us. May the flag that waves above this Capitol remind us that this is Your land.

Thank You, Lord, that our flag also gives us a bracing affirmation of the unique role of the Senate in our democracy. In each age, You have called truly great men and women to serve as leaders. May these contemporary patriots experience fresh strength and vision, as You renew the drumbeat of Your Spirit, calling them to march to the cadence of Your righteousness. In the Name of our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable BLANCHE L. LINCOLN 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. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 14, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BLANCHE L. LINCOLN, a Senator from the State of Arkansas, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mrs. LINCOLN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, we are going to be in a period of morning business until 9:35 a.m. Senator MURRAY has the first 20 minutes. The remaining time will be under the control of the Republican leader or his designee. At 9:35, we are going to have two votes. Following that, the main reason for me appearing this morning is to tell Members S. 2600 will be open for amendment. We hope people will come over today. There will only be two votes.

We didn't have a good day yesterday. We had a couple of amendments, but the rest was not very serious business related to the extremely important antiterrorism insurance legislation.

We hope people will begin to move forward on this legislation. The majority leader indicated we are going to pass this legislation. It is just a question of whether we are going to do it with or without cloture.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:35, with 20 minutes being under the control of the Senator from Washington.

The Senator from Washington is recognized.

HEALTH CARE CHALLENGES IN THE STATE OF WASHINGTON

Mrs. MURRAY. Madam President, seniors in Washington State cannot get

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

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the medical care they need, and I have come to the floor today to explain the problem and to offer a solution that has the support of doctors, nurses, hospitals, and patients throughout Washington State.

While many States are facing challenges in health care, the problems are especially severe in my home State, where providers are struggling to care for patients in a system that is falling down around them. There are many reasons for this crisis, but one of the most fundamental is the unfair way in which Medicare reimburses doctors and providers.

Just look at what happens to the seniors I represent. They have spent their lives working hard, raising their families, and paying into the Medicare system. In fact, they have paid the same percentage of their income into Medicare as Americans from every State. But when they retire, they find that their access to health care depends upon where they happen to live. If they live in Washington State, they can expect far less access and far fewer benefits than seniors in other States. That is because Medicare reimbursement rates vary State by State.

Today, those reimbursement rates don't reflect the true cost of providing care, and they are penalizing patients and providers throughout Washington.

Madam President, in recent years, we have lost many physicians and clinics, especially in our rural areas. These unfair Medicare rates are making the problem even worse by encouraging doctors to retire early, to move, or to stop seeing Medicare patients altogether.

At the same time, these rates make it even harder for us to attract the new doctors, nurses, and health care professionals that we need to fill the growing void. As a result, seniors have to spend all day long on the phone trying to find a doctor who will see them. More often than not, they are told the doctor is not accepting any new Medicare patients.

Today, I want to explain the problem, show the impact it is having on the people of my State, and talk about a legislative proposal that Senator CANTWELL and I have introduced to give Medicare patients the equity they deserve.

For years, the health care challenges of Washington State have been getting worse, just like in the Presiding Officer's State. More and more patients don't have insurance and families don't have enough insurance. There is a shortage of health care professionals. That is causing problems, especially in our rural areas. There are many reasons for these difficulties, including our growing retired population, the rising cost of medical care and prescription drugs, as we all know, and paperwork and insurance.

In January, Medicare payments to doctors were slashed by 5.4 percent nationwide. Because many private insurers base their rates on Medicare payments, providers cannot shift the costs as they could in the past. In addition, Washington State is facing a budget shortfall and that has affected funding for Medicaid.

As we in Washington State try to address those national challenges, we are starting out several steps behind. That is because Washington State receives far below the national average in Medicare payments per patient. As this chart behind me shows, Medicare rates vary by State. Shown here are the average Medicare payments per beneficiary. These figures come from the Federal agency that manages the program—the Centers for Medicare and Medicaid Services, known as CMS. These figures are for fiscal year 2000. I would love to show more recent numbers, but I understand CMS has decided they are no longer going to calculate or distribute these figures.

Looking at this chart, you can see that these figures vary dramatically between States. At the top is Louisiana. They get, on average, $7,336 per Medicare patient. At the bottom is Iowa, which receives less than half that, just $3,053. When you include the District of Columbia, Washington State, my State, ranks 42nd in the Nation in Medicare reimbursement beneficiary. The Presiding Officer's State of Arkansas ranks right here at about 28th in the Nation. It is well below the average of what most States get. The national average is $5,490. Washington State, my State, receives $3,921 per patient.

In fact, in New York, a doctor can be reimbursed at twice the rate as Washington State for some procedures. That affects the stability of our doctors, hospitals, clinics, and home health care providers. Over the lifetime of a Medicare beneficiary, it can mean thousands of dollars less spent on their care in Washington.

These regional inequities have resulted in vastly different levels of care and access to care. For example, in Florida, up here at the top of the chart, a lot of Medicare beneficiaries have access to prescription drugs and prescription eyeglasses in their Medicare Plus Choice program.

In Washington State, while there may be some willing providers, there are no open plans available that offer prescription drug coverage, much less eyeglasses, because of our low reimbursements.

Overall, this is about fairness and access to health care. So I want to point out four reasons this morning why this system is unfair to patients in my State and the other States that rank at the bottom in reimbursements.

First, Washington State seniors pay the same rate into Medicare as everyone else. During their working years, every American pays the same percent of their income into the Medicare system, no matter where they live.

During retirement, every American pays the exact same dollar amount in part B premiums, no matter which State they live in. Washington seniors pay the same, but they do not get the same access to care, and that is not fair.

Second, the reimbursement rates do not reflect the true costs of providing care. The cost of treating a patient does not magically drop when you cross the border into my home State of Washington. The health care pressures we are facing do not stop at the State line, but payments do, and that is forcing doctors to choose between helping patients and staying in business. That is not fair.

Third, health care today is affected by national trends that require more equal reimbursement rates throughout the country. Two of those trends are the shrinking pool of available doctors and the growing need for expensive medical equipment.

There are a limited number of medical professionals, and every State is now competing to attract them. Because Medicare rates are so much lower in my State, we cannot offer the same salaries or the same recruitment incentives.

Hospitals face this challenge when it comes to medical technology. Today, health care relies increasingly on sophisticated expensive technology. An MRI machine costs the same amount for a hospital in Florida as a hospital in Washington State, but the only difference is the hospital in Washington State receives far less money from Medicare to pay for it. Overall, that means our State cannot attract the providers or buy the equipment that other States can, and that is not fair.

I recently heard from doctors with Olympia Radiation Oncology in Olympia, WA, and they said:

> While the cost of state-of-the-art equipment and personnel remains the same from state to state, the reimbursement is allowing appropriately reimbursed states to maintain a higher quality of care, while Washington State is struggling to deliver basic care. . . . If this problem is not addressed in a timely manner, we will continue to have a migration of young people and businesses out of our state, and we will be left with an aging population with suboptimal care.

My State is being penalized for doing the right things in health care, and that is not fair. Washington State has a long tradition of providing high-quality, low-cost health care, but today that innovative tradition is being used against us by the Medicare system. Other States spend more than twice what we spend and end up with less healthy outcomes while we are being punished for providing excellent care at low costs, and that is not fair.

This is an issue of fairness. Our seniors pay the same into the system and pay the same Part B premiums, but we do not get the same access or benefits. Our doctors have to choose between staying in business or accepting Medicare patients because Medicare payments do not reflect the true costs.

Our State is competing with every other State to attract doctors and to buy medical equipment, but we do not

have the same resources as Medicare provides to other States.

Finally, our State is being penalized for providing highly efficient, high-quality health care at low costs. Any way we look at it, the system is not fair to the people I represent.

This difference in reimbursement rates would not be a big deal if it were just a bureaucratic formula on a piece of paper, but we are talking about whether or not people can see a doctor, and I can tell you, unfair Medicare rates are hurting patients in Washington State in several ways. Many doctors are leaving our State, retiring early, or even refusing to accept Medicare patients. Nationwide a study by the American Academy of Family Physicians found that 17 percent of family doctors are not accepting new Medicare patients. The problem is even more severe in my State. The Washington State Medical Association conducted a survey last November and found that 57 percent of physicians who responded said they are either limiting their Medicare patients or dropping all Medicare patients from their practice.

Many experts believe that study does not even show the full extent of the problem. Other doctors are just leaving our State altogether. Since 1998, the number of Washington State Medical Association members leaving our State has increased by 31 percent.

To illustrate this problem, the Washington State Medical Association took out print advertisements in Washington State newspapers. And they say: Eastern Washington, my State, has a thriving medical community. You will find them in places like Boise, ID and Eugene, OR.

> It's getting to the point where Washington doctors can't afford to stay in Washington. Administrative costs are out of control, reimbursement rates don't cover services, medical practices are shutting down. The fact is Medicaid and Medicare are grossly underfunded and private payers are setting their rates according to public programs. Now what does this mean to the patient? It means that even if you have great health insurance, the underfunding of public programs puts your personal physician's practice in jeopardy. So in other words, all the insurance in the world isn't going to help when your family doctor packs up and leaves the State.

This is a pretty good description of what is happening in my State. When doctors leave our State or retire early, their patients have to look for a new doctor who will accept Medicare, and according to my State's medical association, each time one physician leaves the Medicare Program, 2,000 patients have to find a new caregiver.

Across Washington State, seniors are experiencing the frustration of spending all day on the phone and still not being able to find a doctor who will accept them just because they are on Medicare.

Many articles have been published in my State detailing the trouble our seniors are having finding a doctor, and I have included many of these articles on my Web site. But I want to share one example with my colleagues.

A few months ago in Sequim, WA, a small, rural community, an older woman came up to me in a parking lot with a cast on her arm. She told me when she broke her arm, she went to the doctor. He put her cast on and told her to come back in 4 weeks. In the interim, her doctor determined he could no longer take Medicare patients. So when she went back 4 weeks later, she found out her doctor would not see her because he was not accepting Medicare patients.

There she was in this parking lot, standing there asking me how she was supposed to get her cast off. That is how bad it has gotten.

These terrible examples are becoming more common every day in my State because unfair Medicare rates are encouraging doctors to leave my State or close their practices to Medicare patients. But it is not just a problem for people on Medicare. It ends up having an impact on everyone.

When a patient cannot find a doctor, a patient ends up in the emergency room. The ER is really the only place where a patient cannot be turned away. Unfortunately, by the time they make it to the ER, their symptoms, which could have been addressed easily, have now developed into more serious medical problems.

James Newman is an emergency room doctor in Kennewick, WA. He is the chairman of education for the Benton-Franklin County Medical Society. Dr. Newman has seen patients go into cardiac arrest in the emergency room because they did not get care early enough. Often those patients had symptoms for weeks, but they could not find a primary care doctor, so they end up going into cardiac arrest in the emergency room, and that is outrageous.

Dr. Newman says that once a patient is ready to leave the ER, he cannot find a doctor who will continue to care for them. So Dr. Newman, who is board certified in emergency medicine and has been practicing for 10 years, spends much of his time trying to find doctors for his patients, sometimes begging and borrowing favors just to get his patients the care they need, and he ends up having to practice beyond the normal scope of his job.

For example, he might give a patient an 8-month prescription for hypertension medicine because he knows that patient will not be able to find a primary care doctor to refill a shorter prescription. Even worse, Dr. Newman ends up seeing the same patients again and again in his emergency room because they cannot find a doctor to care for them. That is how bad things have gotten in my State.

Remember, the cost of providing care in emergency rooms is much higher than preventing those problems in the first place. This problem impacts everyone who needs emergency care. Our emergency rooms are overcrowded. According to a recent study by the Washington chapter of the American College of Emergency Room Physicians, 91 percent of small hospitals and 100 percent of large hospitals reported overcrowding.

In addition, 76 percent of large hospitals reported overcrowding 2 to 3 times a week or more often.

In addition to problems in the emergency room, these unfair rates also make it hard for us to recruit the new physicians we need to replace those who are moving and retiring early.

I want to share with the Senate what Mike Glenn, the CEO of Olympic Medical Center in Port Angles, WA had to say on recruitment.

As he tries to attract doctors, he is finding that hospitals in other States are offering twice the salaries he can offer.

He says:

> Doctors in nearly every field are either fleeing our state to earn higher salaries, or staying but with growing levels of dissatisfaction and resentment.
>
> Physician headhunter firms have targeted our state as fertile ground to find doctors willing to pack up and leave for positions in states benefitting from more Medicare dollars.
>
> If this situation is not quickly remedied, many Washington communities will face critical shortages of physicians.
>
> Imagine a trip to a hospital Emergency Room without qualified ER doctors to provide life saving treatment, or without anesthesiologists to staff the Operating Room.
>
> This is not a doomsday scenario, but a logical consequence of the current Medicare reimbursement system.

There is no denying that unfair Medicare rates are hurting patients and providers in Washington State.

Doctors are leaving our State or refusing to see new Medicare patients.

As a result, seniors cannot find doctors who will accept them.

Too often, those seniors end up in the emergency room in much worse condition.

We cannot even dig ourselves out of this hole because the low reimbursement rates make it hard for us to recruit new doctors to Washington State

It is going to get worse.

As I mentioned earlier, in January, Medicare payments to doctors were cut by more than 5 percent.

They are expected to continue to decline in the next 3 years for a total decrease of 17 percent by 2005.

That is untenable. We need to do something about it.

Unfortunately, the Bush Administration does not acknowledge the severity of the problem.

In April, Tom Scully, the administrator of CMS, told Washington seniors that ''access was not yet a serious problem.''

On Wednesday, I asked him about it at a hearing, and he said basically the same thing: That it will be a problem, but it is not a serious problem today.

They do not get it.

CMS is not going to fix this.

The White House is not going to fix this.

The Office of Management and Budget is not going to fix this.

If we are going to fix this problem, we are going to have to do it right in the Senate.

That is why Senator CANTWELL and I have introduced S. 2568, the MediFair Act.

The MediFair Act is designed to restore access and fairness to Medicare, and—in the process—help seniors, the disabled and all of our citizens.

This proposal is based on what I have heard from doctors, nurses, hospitals and patients over the past year.

Our bill has been endorsed by the Washington State Medical Association, the Washington State Hospital Association, and the Washington Nurses Association.

On the House side, companion legislation has been introduced.

It has the support of lead sponsor ADAM SMITH along with Representatives DICKS, MCDERMOTT, BAIRD, INSLEE, and LARSEN.

The MediFair Act is a starting point for eliminating the regional inequities in Medicare.

The bill will make the system more fair.

It will ensure that seniors are not penalized when they choose to retire in the State of Washington.

It will encourage more doctors to accept Medicare patients.

It will make it easier for us to recruit new doctors to our State.

And it will help our hospitals and home health agencies get the resources they need to care for our patients.

Let me explain my bill. The MediFair Act works to bring States up from the bottom of the reimbursement list.

The legislation would ensure that every State receives at least the national average of per-patient spending.

The bill does not affect States that currently receive the national average or just above the national average.

Further, our bill promotes efficient health care and healthy outcomes.

This is an area where we really need to correct the incentives.

Here is how Mike Glenn of the Olympic Medical Center put it:

> The concern is not over 42 states receiving better Medicare reimbursement than Washington, but over what is rewarded and what is not.
>
> Washington hospitals and physicians are proud of our record of pioneering high quality, cost effective medicine. And we do so by focusing on treatments that can help, while avoiding overuse of treatments that cannot.
>
> This style of medicine yields equal if not better patient outcomes. Our reward for this is to be paid a fraction of our actual costs.
>
> To make matters worse, states who do not embrace our style of cost effective care continue to demand and receive twice as much funding from Medicare for no discernable difference in patient outcomes.
>
> The gap between the ''haves'' and the ''have-not States'' is growing.
>
> If Medicare does not change this—through action like the MediFair bill—Washington hospitals in Medicare dependent areas will enter into a death spiral until they are forced to close their doors.

So our bill promotes the right things: efficient healthcare and healthy outcomes. It will force States that receive inordinately high payments to improve the quality of their healthcare.

Payments would be reduced to those States, which do not realize healthy outcomes—such as extending life expectancy or reducing rates of diabetes or heart disease.

Simply put, our bill finally holds states accountable for the health care they provide with Medicare dollars.

Before I close, I want to answer just a few questions about my bill.

Some are concerned about the possible cost of fixing the inequities in Medicare.

I am, too.

But I also know that there is a high cost to doing nothing as seniors lose their doctors and their access to healthcare.

There is a cost to the community when seniors end up in-and-out of the emergency room on a regular basis.

And of course, there is a human cost to the patients and their families.

Another question I have heard is:

How will this bill attract support from Senators from high reimbursement states?

First, States that are using Medicare dollars efficiently and effectively don't need to be concerned.

Either way, I recognize that not everyone will embrace this specific legislative proposal.

I want to find a solution that will help seniors get the care they need, and I recognize that there may be different ways to approach the problem.

This MediFair bill is a starting point. It's a way to draw attention to the problem and get folks to look at various solutions.

What matters is fixing the problem, so I welcome ideas and suggestions from anyone who wants to help us solve this problem.

Finally, some of my colleagues may wonder how this bill fits into our efforts to provide a Medicare prescription drug benefit, which is something I have worked to pass for several years.

We have introduced the ''Medicare Outpatient Prescription Drug Act of 2002,'' of which I am a cosponsor.

Our work on prescription drugs should not keep us from fixing this fundamental problem.

After all, a prescription drug benefit isn't worth anything if there aren't any doctors to write out a prescription. So both issues are critical, and we need to move forward on both of them.

We need to fix these problems now—before another senior in my State loses her doctor—before another patient goes into cardiac arrest in the emergency room because he could not find a doctor when his symptoms first appeared.

The system is unfair, and as Dr. Sam Cullison said, ''Sadly, it is the Medicare patients themselves who are paying the price for this inequity.''

We can restore fairness to Medicare.

We can help patients get the medical access they need, and the MediFair Act is part of that process.

I invite my colleagues to talk with Senator CANTWELL and me about how we can move this or any other proposal forward.

I conclude by saying that this is a matter of critical national attention, and I am going to work every single day to educate our fellow Senators, who are also impacted. We have to do something about this.

I ask unanimous consent that several articles be printed in the RECORD.

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

[From the Everett Herald, June 4, 2002]

MURRAY'S MEDICARE PLAN A STEP IN RIGHT DIRECTION

Sen. Patty Murray has the right intention. She wants to make Medicare work better for patients and health care providers alike in this state.

Murray and the rest of the state's congressional Democrats have united around a plan that would raise Medicare reimbursements to health care providers in states where payments are below the national average. Washington is among the 10 lowest states in reimbursement rates, which actually punish areas with relatively efficient health care systems.

Murray's Medi-Fair Act would remedy the inequity by raising all payment rates to at least the national average and over time, forcing improvements elsewhere. It's a good plan, but one that is more likely to raise much-needed discussions rather than solve the problem immediately.

The short-term political reality is that the potential solutions run into a double-whammy. On one side, the Bush administration appears determined to avoid domestic spending increases—unless there is a high enough political gain, such as with the farm bill. On the other side, major states—including California, New York and Florida—aren't about to help others address the equity issue unless their higher Medicare reimbursements can be protected.

The best hope is that Murray and potential allies in both parties, including Republican Sen. Charles Grassley of Iowa (where reimbursement rates are the lowest of all), can raise the level of discussion to the point that a solution becomes politically necessary.

Certainly, for Medicare patients and aging baby-boomers who will soon use the system, the need for action is becoming increasingly serious. The inequities have been around for years, but their effects have become more severe. In this state, many doctors are now refusing to take new Medicare patients because the reimbursements don't cover physicians' costs. The problems extend beyond doctors, though, to other providers.

For the entire health care system, the paper work accompanying Medicare is also a serious issue. It aggravates the low reimbursements here by running up the expenses in medical offices. There is a need for a system that simplifies administration, just as there is a need for a health care system that provides broader access for all people, regardless of age and income.

Action on reforming Medicare's inequities should not be made to wait for such larger solutions. Medicare is America's most significant achievement in assuring health care access. Its erosion cannot be tolerated. Whatever the politics obstacles to immediate action, the Murray initiative helps bring forward the issue of massive inequities in reimbursements. That's a step in the right direction.

[From the Bellingham Herald, June 12, 2002]

''MEDIFAIR'' IS WORKABLE ANSWER

Our nation's Medicare system is so fraught with problems that there is no single cure for what ails it. Recovery will require multiple remedies over time. Still, U.S. Sen. Patty Murray, D–Wash., took a healthy step toward a solution in announcing her ''Medifair'' legislation last month.

Much lip service has been paid to addressing Medicare issues, but Murray's bill, still in draft form, advances the fight.

It's no secret that Washington state is at the low end of the scale for reimbursements. That's more than evident in Whatcom County, where the Family Care Network and Madrona Medical groups have had to stop taking new Medicare patients because they can't afford to treat them.

Despite the fact that everyone pays into the system at equal rates, the doctors who treat them are not reimbursed at the same rates. States like California and Florida receive far higher payments than Washington, which is being penalized for trying to contain medical costs. The current formula is unfair to both the patients who pay into it and to the health-care providers who treat them.

Murray's bill would require that every state receive at least the national average for per-patient spending, which was $5,490 in 2000. Washington received about $3,900 per beneficiary in 2000, making it 42nd among the states in per capita spending.

Under Murray's proposal, states that receive 105 percent of the average could see cuts.

In reality, the bill will face very strong opposition and will be difficult to pass. Big states will fight hard not to have their reimbursements cut, and the formula could require new revenue that won't be readily available.

The important thing is that Murray is getting the system on the table for examination.

While Washington ranks near the bottom in reimbursements, it ranks closer to the top in numbers of Medicare clients. The federal plan covers about 750,000 seniors and disabled people in this state, making it 18th in the nation in client base, according to 1999 figures.

U.S. Rep. Rick Larsen, D-Arlington, has already announced he's behind Murray's idea.

It's time for Washington's other members of Congress, on both sides of the aisle, to join this fight and help Washington be a leader in Medicare reform.

[From the Spokesman-Review, June 5, 2002]

MURRAY'S BILL RIGHTS MEDICARE INEQUITY

(By John Webster)

Unveiling a Medicare-enhancement bill the other day, U.S. Sen. Patty Murray told an unsettling story: An elderly constituent wearing a cast on her arm came up to Murray and said that when the time came to get her cast removed, her physician refused to see her because he recently had stopped accepting Medicare patients.

Why would any member of the healing profession want to shun Medicare, a major source of patients? Because, in Washington state, Medicare's reimbursement rates are lousy and getting worse.

That's why Murray introduced S. 2568, the MediFair Act of 2002. The bill would compel Medicare officials to correct a reimbursement inequity.

The state medical association says this inequity has created such financial difficulty that a growing number of older physicians are throwing in the towel and retiring; young physicians are moving to states other than Washington; and, some Washington state physicians are deciding to stop taking Medicare patients.

These are alarming trends for the residents of our state. The problem is particularly troubling for Spokane. Here, there is a sizable population of low-income and elderly people who depend on Medicare. In addition, Spokane is a regional center for advanced medical services—one of the strongest sectors in our economy. Medicare is a leading source of the health care industry's income; if it fails to cover costs, that's a serious problem.

The reimbursement inequity has existed for years, but it is getting progressively worse. When Medicare set its reimbursement rates years ago, it built them on the status quo, state by state. Medical care was more cost-efficient here than in some states, so reimbursement rates here were set at a lower level.

But as years went by, physicians have faced a accelerating need to invest in high-tech equipment, which costs the same everywhere. Medicare's rates left Washington's clinics with less money to buy that technology, than doctors had in other states.

On top of that, in 1997 Congress approved a series of cuts in Medicare, to balance the federal budget. Ever since, Medicare has been cutting physicians' reimbursement rates. Doctors in less-efficient states with higher reimbursement rates had leeway to adopt efficiencies and adjust. Not so, in Washington, where rates are lower. By 2005, that 1997 budget deal is scheduled to have cut reimbursement rates by 17 percent.

As of 2000, Sen. Murray says, Medicare spent an average of $3,921 on each Medicare beneficiary in Washington state. In New York it spent $6,924. The national average was $5,490. Washington's rate ranked 42nd in the nation.

This makes it tough for Washington to keep or recruit physicians.

According to a survey by the Washington State Medical Association, 57 percent of physicians are limiting or dropping Medicare patients from their practice.

Murray's bill would require Social Security to correct the inequity; in states such as Washington, Medicare would have to raise reimbursement rates to the national average.

The proposal has the support of associations representing the state's doctors, hospitals and nurses. Good for Sen. Murray, for seeking a solution. The elderly depend on Medicare, and they are counting on Congress to fix Medicare's many ailments—including this one, which threatens the stability of medical clinics as well as access to the physicians that elderly people need.

Mrs. MURRAY. I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the remaining time shall be under the control of the Republican leader or his designee.

The Senator from Virginia

UNANIMOUS CONSENT AGREEMENT—S. 2600

Mr. ALLEN. Madam President, I ask unanimous consent that amendment 3838, which will be the second vote today, be referred to as the Harkin-Allen amendment in recognition of the tireless efforts and leadership of our colleague from Iowa on this important issue.

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

TERRORISM RISK INSURANCE

Mr. ALLEN. In support of the Harkin-Allen amendment No. 3838, I do want to say that our friend and colleague from Iowa, Senator HARKIN, and I, introduced the measure to allow victims of terrorist acts to seek judgments in our Federal courts with due process and, if accorded a judgment, be able to try to get that judgment satisfied from assets of those terrorist organizations or terrorist assets which have been seized or frozen by the Federal Government.

This measure allows those people from all across the country, including Iowa, Virginia, and other States, to get satisfaction for compensatory damages that they have been awarded. I want to again thank our colleague from Iowa, Senator HARKIN, for his great leadership and his great efforts in this regard.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

ENERGY POLICY

Mr. THOMAS. Madam President, I will make a few remarks this morning in our remaining time regarding one of the issues before us. We, of course, have spent a good deal of time on emergencies over the last number of months, and properly so. We have had emergencies. Obviously, the most compelling one has been terrorism and homeland defense.

In addition to that, we have talked about a number of other things. We have had fires; agriculture, which we felt is something of an emergency; as well as health care, which the Senator from Washington talked about. Indeed, most legislation that comes up is sort of deemed an emergency, at least in the view of the sponsor.

There is one thing which I think pretty clearly should be one of the most important, something that will affect us over time and one that we can avoid, which is the energy problem in our country. Probably nothing touches more Americans than energy, whether it be electric energy or gasoline for one's automobile.

Finally, after a considerable amount of effort in both Houses, we do have an energy bill that has passed both Houses. It is designed to give us an energy policy which we have not had for a very long time. Obviously, there are differences between the House-passed bill and the Senate-passed bill. Both of them have many of the components that were put forth by the President and the Vice President early last year in terms of an energy policy. Yesterday, we had the appointment of a conference committee named by the House, and I am pleased with that because we will be able now to go forward in putting together these two bills and coming out with an energy policy for the United States.

I want to emphasize how important that is. We have seen some problems

recently in California, of course, and problems can occur in other places. We will likely see some this summer if we continue to have the heat we have had, and the demand for electric power. There will be some problems, I suppose, relative to that.

We are seeking a policy that does several things. No. 1, it avoids having an energy crisis. There is no real need for that. We know what is needed. It is very simple to set forth what we have to have in the future. We are also seeking to try to do whatever we can. It is very possible to avoid overdependency on imported oil and fuel. We are now 60 percent dependent on overseas countries for our oil supplies. These are our challenges.

In addition, an energy policy that looks forward to cleaner air and protecting our environment is one everyone is committed to. There will be great debate over ANWR and whether or not a small footprint on 19 million acres of a wildlife refuge in Alaska would be detrimental. That is yet to be decided.

However that turns out, there are things we have to do. One opportunity we have is to continue to make coal a cleaner resource. Regarding electric generation, 50 percent is generated by coal. That will continue to grow, I suspect, and be a larger percentage over time. We need to make sure we can make the coal-generated electricity as clean as possible. Our bill will provide for additional help with respect to that. It is important we do that. Coal is probably the largest energy resource we have available in the United States.

Regarding gas and oil, again, we have become very dependent on imports. We have great opportunities in this area in the continental United States, in Alaska and the West. We need to do that and be balanced with the environment and production. We need access to public lands to do that. We will work on that.

We have an opportunity now to deal with one of the issues that impacts, probably more than anything else in this country, our policy on energy. We are ready to move with that. It needs to be balanced between renewables, production, environment, and usage. We can do that.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

TERRORISM INSURANCE

Mr. DODD. Madam President, we are going to start voting at 9:35. We need a roadmap to follow as to what we are going to do in the next 45 minutes with a variety of votes on matters that are related in some degree, but mostly unrelated, to S. 2600, the terrorism insurance bill, the subject of debate all day yesterday. We will be continuing with matters that have to be dealt with before we get back to that bill. I take a minute or so to express my sincere hope we will get back to that bill. I regret it is taking this long. We have been at this an awfully long time.

We only dealt with two amendments yesterday that were relevant to the bill despite all the talk about this. There are people from the AFL–CIO, to business groups, developers, commercial interests, who would like to see the bill adopted soon because of the inability of major projects to move forward due to the unavailability of terrorism insurance.

We have come a long way while waiting to get here. This is an important issue. The President indicated this, and the Secretary of the Treasury, and every organization I know of, with the exception of one or two, believe this is something we must do and should have done earlier. We will deal with some of the other matters, and I don't minimize the importance of them, but we are getting off track from the underlying bill. The leader feels strongly about this, as do many Members on both sides. We had some very fine speeches yesterday by Members on both sides of the aisle in support of this underlying legislation.

My hope is sooner, rather than later, we can adopt S. 2600. We will deal with some other matters, but I hope to get back to the bill and complete it. I am prepared to stay here as long as we have to and listen to Senators all day today and all day Monday. There will be no votes until Tuesday, but we can dispense with debate today and Monday and bring us to final closure on this bill on Tuesday. The leader has to make some decisions on proceeding, but he is determined the legislation move forward.

I yield the floor.

Mr. LEAHY. What is the parliamentary situation?

The ACTING PRESIDENT pro tempore. At 9:30, morning business is to be closed.

The Senator from Iowa.

Mr. HARKIN. Madam President, I ask unanimous consent that I be allowed to speak for 4 minutes and delay the vote from 9:35 to 9:39.

Mr. LEAHY. Reserving the right to object, and I shall not, has there been reserved time already on this vote?

The ACTING PRESIDENT pro tempore. There is no time reserved for debate on matters.

Mr. LEAHY. Madam President, I understood the Senator from Vermont had time reserved on the Leahy-Hatch amendment. Am I incorrect on that?

The ACTING PRESIDENT pro tempore. There was an order for the Senator to be recognized to offer the amendment but no specific time for debate.

Mr. LEAHY. I thank the Chair.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Iowa will be recognized for 4 minutes.

HARKIN-ALLEN AMENDMENT ON TERRORISM VICTIM'S ACCESS TO COMPENSATION

Mr. HARKIN. Madam President, first, I thank the Senator from Virginia, Senator ALLEN, for bringing this matter to the floor. I was unavoidably detained yesterday. I had a lot of constituents from the Greater Des Moines Chamber of Commerce, about 140 Iowans, with whom I was meeting as we concluded a very busy day to cap off their annual work trip to Washington, D.C. Unfortunately, I was unable to be here in the Chamber to assist and help my good friend from Virginia in offering this amendment.

I personally thank the Senator from Virginia for filling in the gap yesterday and getting this amendment up on this bill. This is an issue that needs to be addressed and I could not ask for a more dedicated and steadfast ally than Senator ALLEN in helping pursue justice for all of the innocent American victims of state-sponsored terrorism. This is an issue that must be addressed by this Congress.

That is why the bipartisan legislation Senator ALLEN and I introduced in April—the Terrorism Victim's Access to Compensation Act (S. 2134) and the amendment that Senator ALLEN joins me in offering here take two very important steps. First, this amendment would require that compensation be paid first and foremost from the blocked and frozen assets of the state sponsors of terrorism and their agents, not U.S. taxpayers, in cases where American victims of terrorism secure a final judgment in our federal courts and are awarded compensation accordingly.

Second, this amendment provides a level playing field for all American victims of state-sponsored terrorism who are pursuing redress in our federal courts and compensation from the blocked assets of state sponsors of terrorism, including their agencies and instrumentalities.

Madam President, we are united as Americans to meet the threat of international terrorism. This fight is being waged on many fronts, from the mountains of Afghanistan to the borders and streets of America.

Even as we track down the terrorists and defend America, we must never forget that terrorist acts are ultimately stories of human tragedy. We must never forget the victims.

I am talking about American victims like the dedicated, professional woman from Waverly, IA, Kathryn Koob, who sought to build cross-cultural ties between the Iranian people and the American people only to be taken hostage in the U.S. Embassy in Tehran and held captive for 444 nightmarish days in Iran.

I am talking about American victims like Taleb Subh from LeClaire, IA, who, as a teenager, was visiting relatives in Kuwait and terrorized by Saddam Hussein and his troops at the outbreak of the Persian Gulf War.

These are two examples, but Americans in all 50 states have suffered. That is why Senator ALLEN and I have joined together with 17 co-sponsors on both sides of the aisle to advance this legislation to ensure that American victims of state-sponsored terrorism are justly compensated for their pain, suffering, and losses.

Current law allows American citizens to sue terrorists for compensation for their losses. Many Americans have won verdicts and judgments in our federal courts, yet have been unable to collect even though the U.S. Treasury lawfully controls at least $3.7 billion in blocked or frozen assets of the seven foreign governments known to sponsor terrorism. Our own government has worked to prevent these families from collecting. In fact, our own State Department and Justice Department have gone into federal court to single out and block the 52 Americans held hostage in Iran and their families from even being able to pursue justice in our federal courts, let alone collect compensation.

To be clear, current law only applies to terrorist states. At present, seven foreign governments are officially designated by the U.S. State Department as state sponsors of terrorism. They are Iran, Iraq, Libya, Syria, Sudan, North Korea, and Cuba. It is those state sponsors of international terrorism, not the American taxpayer, who must be compelled to pay these costs first and foremost.

The Harkin-Allen Amendment sends a clear message to foreign governments that sponsor international terrorism: If you sponsor terrorism, if you attack innocent Americans, we will pursue you, we will bring you to justice, and America will literally make you pay.

American victims of state-sponsored terrorism deserve to be compensated for their pain, suffering, and losses by those terrorists who sponsor and commit these terrible acts. The Congress should clear the way for those with court-ordered judgments to be paid from blocked terrorist assets and, in so doing, deter future acts of state-sponsored terrorism against innocent Americans.

Again, I appreciate the Senator from Virginia taking the initiative on this and getting this amendment up when I was unavoidably detained yesterday. I hope we have a resounding vote in favor of its passage.

Mr. ALLEN. Will the Senator yield?

Mr. HARKIN. I yield.

Mr. ALLEN. I say to my good friend from Iowa, Senator HARKIN, this is referred to as the Harkin-Allen amendment. I thank you for your great leadership. All of us have a lot of busy times around here, but we are teamed together for the victims who ought to get just compensation from these terrorists.

Mr. HARKIN. I thank the Senator from Virginia for his kindness and generosity and for propounding that unanimous consent request. He is a gentleman.

Several Senators addressed the Chair.

Mr. HARKIN. Madam President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. I ask for the yeas and nays on both amendments—I withdraw that.

Madam President, I ask unanimous consent I be allowed to proceed for no more than 3 minutes on the Leahy-Hatch amendment.

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

TERRORIST BOMBINGS CONVENTION

Mr. LEAHY. Madam President, the Senator from Iowa has left the floor. I note he and the Senator from Virginia—we had attempted to move the Harkin-Allen amendment through the Judiciary Committee yesterday. There was an objection to moving it, on the Republican side; otherwise, I would think we could have had it on the floor as a freestanding matter.

We are considering the Leahy-Hatch substitute for the Terrorist Bombing Convention. This bill brings the United States into immediate compliance with two international conventions signed by the United States. Both conventions were entered into after the terrorist bombings at the U.S. embassies in Kenya and Tanzania. If anybody wants to know why these treaties are important, look at the news today, the horrific car bombing outside the U.S. consulate in Karachi, Pakistan.

We grieve for the victims; we mourn with the families of the dead; and we pray for the speedy recovery of the injured. And, Mr. President, we act. Not tomorrow—not next month—but today. We act to protect future victims. We act to punish future evil doers. We act to show that the United States will lead the international community in the fight to end such terrorist bombings. That is precisely what my bill, S. 1770, and the Leahy-Hatch substitute does. Although I introduced this bill over six months ago, today's events should serve as a jolt to us all. The time for delay and obstructionism and partisan bickering is over. It is time to pass this bill.

I am pleased the Senate is considering the Leahy-Hatch substitute amendment to S. 1770, the ''Terrorist Bombing Convention and Suppression of the Financing of Terrorism Convention Implementation Acts of 2001.'' This bill will bring the United States into immediate compliance with two important international conventions, which were signed by the United States and transmitted to the United States Senate for ratification by President Clinton. Both Conventions were entered into after the terrorist bombings at the United States embassies in Kenya and Tanzania.

Consideration of these important treaties was inexcusably delayed when the Senate was under Republican control, and passage of this implementation legislation has been likewise blocked by an anonymous Republican hold. As I urged in a statement on the floor of the Senate on June 7, Republican obstructionism on this anti-terrorism legislation should stop, the anonymous Republican hold on this bill should be lifted and this bill should pass.

The International Convention for the Suppression of Terrorist Bombings—''Bombing Convention''—was adopted by the United Nations General Assembly in December 1997 and signed by the United States in January 1998. In September 1999, it was transmitted to the Senate by President Clinton for ratification, but no action was taken on this treaty while the Senate remained under Republican control.

The International Convention for the Suppression of Financing Terrorism—''Financing Convention''—was adopted by the United Nations General Assembly in December 1999 and signed by the United States in January 2000. In October 2000, it was transmitted to the Senate by President Clinton for ratification, but, again, no action was taken on this treaty while the Senate remained under Republican control.

When the Senate reorganized under a Democratic majority last summer, the Foreign Relations Committee under the leadership of Chairman BIDEN moved expeditiously to report these conventions to the full Senate. The antibombing treaty, in particular, sat in the Foreign Relations Committee for approximately 2 years without action during the Clinton administration when the Senate was under Republican control. Senator BIDEN deserves credit for acting quickly to report these treaties shortly after he assumed chairmanship of the Foreign Relations Committee. Under the leadership of Majority Leader DASCHLE, the two treaties were considered by the Senate, which gave its consent to ratification by unanimous consent on December 5, 2001.

Yet even as Senator BIDEN and Majority Leader DASCHLE were pushing to move the treaties themselves through the Senate, the Bush administration did not transmit proposed implementing legislation to the Judiciary Committee before or during the time that we were working together day and night to write the USA PATRIOT Act, the bipartisan antiterrorism legislation responding to the events of September 11. I remain puzzled why the administration felt that this measure should be separated from that effort.

Both treaties require the signatory nations to enact certain, precisely worded criminal provisions in their laws in order to be in compliance. That is what S. 1770, the Leahy bill, does. I introduced S. 1770, on December 5, 2001, shortly after passage of the USA Patriot Act, as a separate bill. This was the same day that the Senate agreed to ratify both treaties. I then tried to

move the bill quickly through the Senate, but an anonymous Republican hold blocked passage.

Again this year I tried to move the bill through the Senate, but again there was an anonymous hold from the Republican side of the aisle which blocked its passage. Had there not been a hold placed on the bill last year, I am quite sure that we could have resolved any remaining issues in conference, as the Republican-controlled House was simultaneously passing its own version of my bill.

After the anonymous hold was placed on S. 1770 at the end of the last session, we received a letter from the Department of Justice on January 29, 2002, about the bill. The letter stated that the Department ''support[ed] the legislation but recommend[ed] several modifications.'' None of the modifications which the Department recommended dealt with issues that were necessary for compliance with the treaties, the basic purpose of the bill. The legislation I originally introduced would bring this country into full compliance with those important obligations and take away an excuse from nations that are hesitant to cooperate in the war against terrorism.

The recent spate of horrible suicide bombings around the world and the fact that the convention prohibiting terrorist financing entered into force on April 10, 2002, demonstrate the pressing need for this legislation. As if that was not enough, only last month the FBI Director warned that he believes that suicide bombings in the United States are ''inevitable,'' bringing home the point that this legislation is required both to fight terrorism at home and abroad. Nevertheless, S. 1770 has been subjected to an anonymous Republican hold since December of last year.

In the post-September 11 environment it is almost beyond my understanding why any Member of this body would secretly obstruct passage of an important piece of antiterrorism legislation—yet here we are in June, blocked from compliance with two international terrorism treaties by a secret Republican hold. As the Administration has made clear, both Conventions are:

> important to insure that all nations have in place laws to enable full and effective international cooperation against terrorism. By enacting this legislation, the United States will be in a position to lead the cooperative effort against terrorist bombings and terrorist finances.

See Statement of Administration Policy, December 19, 2001.

The legislation meets our obligations under the treaties in the following ways. Both conventions require signatory nations to adopt criminal laws prohibiting specified terrorist activities in order to create a regime of universal jurisdiction over certain crimes. Articles 2 and 4 of the Bombing Convention require signatory countries to criminalize the delivery, placement, discharge or detonation of explosives and other lethal devices ''in, into, or against'' various defined public places with the intent to kill, cause serious bodily injury, or extensively damage such public places. The Bombing Convention also requires that signatories criminalize aiding and abetting, attempting, or conspiring to commit such crimes.

Articles 2 and 4 of the Financing Convention require signatory countries to criminalize willfully ''providing or collecting'' funds, directly or indirectly, with knowledge that they are to be used to carry out acts which either (1) violate nine enumerated existing treaties, or (2) are aimed at killing or injuring civilians with the purpose of intimidating a population or compelling a government to do any act. The Financing Convention also requires that signatories criminalize aiding and abetting, attempting, or conspiring to commit such crimes. Signatories must criminalize such acts under Article 2 whether or not ''the funds were actually used to carry out'' such an offense.

Both conventions require that signatory nations exercise limited extraterritorial jurisdiction and extradite or prosecute those who commit such crimes when found inside their borders. The conventions also require that signatories ensure that, under their domestic laws, political, religious, ideological, racial or other similar considerations are not a justification for committing the enumerated crimes. Thus, signatory nations will not be able to assert such bases to deny an extradition request for a covered crime. Finally, Article 4 of each convention requires that signatory states make the covered offenses ''punishable by appropriate penalties which take into account the grave nature of [the] offenses.''

S. 1770 and the substitute amendment, consistent with the House version of this bill, H.R. 3275, create two new crimes (one for bombings and another for financing terrorist acts) that track precisely the language in the treaties, and bring the United States into compliance. The legislation also provides extraterritorial jurisdiction as required by the conventions. Furthermore the bill creates domestic jurisdiction for these crimes in limited situations where a national interest is implicated, while excluding jurisdiction over acts where the conventions do not require such jurisdiction and there is no distinct federal interest served.

The bill, again consistent with the H.R. 3275, also contains ''ancillary provisions'' that would make the two new crimes predicates for money laundering and RICO charges, and for wiretaps. The two provisions would also be subject to an 8-year statute of limitations and included as a ''federal crime of terrorism.'' Finally, civil asset forfeiture would be available for the new terrorism financing crime. Existing anti-terrorism crimes are predicates for each of these tools, and providing law enforcement with these ancillary provisions is both consistent and appropriate.

Neither international convention requires a death penalty provision for any covered crime. Indeed, the Department of Justice, in a memorandum dated November 14, 2001 to the Subcommittee on Crime of the House Judiciary Committee, made amply clear that ''the death penalty is not required by the Convention'' and would not be required to bring the United States into compliance. This should come as no surprise, given international sentiment opposing the United States' use of the death penalty in other contexts.

The inclusion of a death penalty provision in the implementing legislation for these conventions could lead to complications in extraditing individuals to the United States from countries that do not employ the death penalty. Therefore, unlike the House version of the implementing legislation, the original Senate version of S. 1770 contained no new death penalty provision.

The Administration's insistence on adding yet another death penalty to our federal criminal laws is especially inexplicable given the context of this implementing legislation. The chief purpose of the Terrorist Bombing Convention is to foster international cooperation and decrease hurdles to extradition in terrorism cases. The United States, understandably, wants those who victimize its citizens around the world to be subject to trial and punishment in our own courts. Beyond that purpose, the legislation is largely duplicative of existing state and federal laws.

Even in the recent terrorism context, however, where the desire to assist the United States is at its peak, our closest allies have balked or obstructed our prosecution efforts when the death penalty has been implicated, wasting valuable time in our proactive efforts to prevent future attacks. For instance, according to press reports France offered legal assistance to Zacarrias Moussaoui, the so-called ''20th Hijacker,'' in part due to the decision to seek the death penalty in his case. Spain also refused to extradite a highly dangerous group of terrorists to the United States based upon concerns about the death penalty, and a European Union raises similar concerns. This week the Washington Post reported that Germany also is refusing to fully cooperate in the prosecution of Moussaoui because the United States is seeking the death penalty in that case. In short, the primary purpose of this implementing legislation, fostering international cooperation, may be defeated by the White House's insistence on the inclusion of a death penalty provision in this bill.

Nevertheless, at the insistence of the White House, the substitute amendment would allow the government to seek the death penalty in bombing

cases where death results, by reference to the existing death penalty provision found in 18 U.S.C. §2332a, prohibiting the use of weapons of mass destruction.

Unlike H.R. 3275, the original Senate version of S. 1770 also did not contain a third new crime for ''concealment'' of material support for terrorists. The Department of Justice conceded in the November, 2001, memorandum that this provision was not necessary to bring the United States into compliance with the conventions, stating, ''the concealment offense set forth in proposed 18 U.S.C. §2339(c)(b) does not directly implement the Convention.'' Indeed, in the wake of the passage of new money laundering provisions in the USA PATRIOT Act, P.L. No. 107–56, and due to the existence of a concealment crime under 18 U.S.C. §2339A, with which the Department of Justice recently charged several people in New York, including a criminal defense attorney, such legislation is largely duplicative of existing law. More problematic, however, is the fact that the House bill provided a lower mens rea requirement than §2339A, an important change that was not highlighted or explained in the Administration's accompanying materials.

The substitute amendment contains a new crime of concealment that tracks the existing mens rea requirements of §2339A, so that a large class of non terrorist related activity is not inadvertently covered. This new crime would be punishable by ten years imprisonment.

Finally, the original Senate bill contained an important new tool for international cooperation between law enforcement which is not included in H.R. 3275 and has been deleted from the substitute amendment. Currently, there is no clear statutory authority allowing domestic law enforcement agents to share Title III wiretap information with foreign law enforcement counterparts. This may create problems when, for example, the DEA seeks to alert Colombian authorities that a cocaine shipment is about to leave a Colombian port but the information is derived from a Title III wiretap.

The original bill would have clarified the authority for sharing wiretap derived information, specifically in the Title III context. The bill provided a clear mechanism through which law enforcement could share wiretap information with foreign law enforcement, while at the same time ensuring that there are appropriate safeguards to protect this sensitive information against misuse. It added a subsection to 18 U.S.C. §2517, permitting disclosure of wiretap information to foreign officials (1) with judicial approval, (2) in such a manner and under such conditions as a court may direct, and (3) consistent with Attorney General guidelines on how the information may be used to protect confidentiality. Unfortunately, due to the White House's objection, the substitute removes it from the bill.

I am pleased that obstructing has stopped on this important implementing legislation for two anti-terrorism treaties that are intended to increase protections for our national security by enhancing international cooperation in the fight against terrorism.

I ask unanimous consent for the substitute to be printed in its entirety the record at the conclusion of my remarks along with the sectional analysis including a summary of the changes made by the substitute to the original bill.

ANTI-TERRORISM CONVENTIONS IMPLEMENTATION—SECTION-BY-SECTION ANALYSIS

TITLE I—SUPPRESSION OF TERRORIST BOMBINGS

Title I of this bill implements the International Convention for the Suppression of Terrorist Bombings, which was signed by the United States on January 12, 1998, and was transmitted to the Senate for its advice and consent to ratification on September 8, 1999. Twenty-eight States are currently party to the Convention, which entered into force internationally on May 23, 2001. The Convention requires State Parties to combat terrorism by criminalizing certain attacks on public places committed with explosives or other lethal devices, including biological, chemical and radiological devices. The Convention also requires that State Parties criminalize aiding and abetting, conspiring and attempting to undertake such terrorist attacks.

Section 101. Short Title

Section 101 provides that title I may be cited as ''The Terrorist Bombings Convention Implementation Act of 2001.''

Section 102. Bombing Statute

Section 102 adds a new section to the Federal criminal code, to be codified at 18 U.S.C. §2332f and entitled ''Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities,'' which makes terrorist acts covered by the Convention a crime. New section 2332f supplements and does not supplant existing Federal and State laws, and contains five subsections, which are described below.

Subsection (a) makes it a crime to unlawfully place or detonate an explosive in certain public places and facilities with the intent to cause death or serious bodily injury, or with the intent to cause extensive destruction, where such destruction results in, or is likely to result in, major economic loss. Conspiracies and attempts to commit such crimes are also criminalized. This provision implements Article 2, paragraphs 1, 2 and 3 of the Convention.

Inclusion of the term ''unlawfully'' in subsection (a), which is mirrored in Article 2 of the Convention defining the offenses, is intended to allow what would be considered under U.S. law as common law defenses. For purposes of subsection (a), whether a person acts ''unlawfully'' will depend on whether he is acting within the scope of authority recognized under and consistent with existing U.S. law, which reflects international law principles, such as self defense or lawful use of force by police authorities. This language is not to be construed as permitting the assertion, as a defense to prosecution under new section 2332f, that a person purportedly acted under authority conveyed by any particular foreign government or official. Such a construction, which would exempt State-sponsored terrorism, would be clearly at odds with the purpose of the Convention and this implementing legislation.

With respect to the mens rea provision of subsection (a), it is sufficient if the intent is to significantly damage the targeted public place or facility. Further, for the purpose of subsection (a), when determining whether the act resulted in, or was likely to result in, major economic loss, the physical damage to the targeted place or facility may be considered, as well as other types of economic loss including, but not limited to, the monetary loss or other adverse effects resulting from the interruption of its activities. The adverse effects on non- targeted entities and individuals, the economy and the government may also be considered in this determination insofar as they are due to the destruction caused by the unlawful act.

Subsection (b) establishes the jurisdictional bases for the covered offenses and includes jurisdiction over perpetrators of offenses abroad who are subsequently found within the United States. This provision implements a crucial element of the Convention (Article 8(1)), which requires all State Parties to either extradite or prosecute perpetrators of offenses covered by the Convention who are found within the jurisdiction of a State Party. While current Federal or State criminal laws encompass all the activity prohibited by the Convention that occurs within the United States, subsection (b)(1) ensures Federal jurisdiction where there is a unique Federal interest, e.g., a foreign government is the victim of the crime or the offense is committed in an attempt to compel the United States to do or abstain from doing any act.

Subsection (c) establishes the penalties for committing the covered crimes at any term of years or life. This provision differs from the Administration proposal, which sought to add a new death penalty provision for this crime, despite the fact that such a provision is not required for compliance under the Convention and may create hurdles in seeking extradition to the United States under this statute.

Subsection (d) sets forth certain exemptions to jurisdiction as provided by the Convention. Specifically, the subsection exempts from jurisdiction activities of armed forces during an armed conflict and activities undertaken by military forces of a State in the exercise of their official duties.

Subsection (e) contains definitions of twelve terms that are used in the new law. Six of those definitions (''State or government facility,'' ''infrastructure facility,'' ''place of public use,'' ''public transportation system,'' ''other lethal device,'' and ''military forces of a State'') are the same definitions used in the Convention. Four additional definitions (''serious bodily injury,'' ''explosive,'' ''national of the United States,'' and ''intergovernmental organization'') are definitions that already exist in other U.S. statutes. One of those definitions (''armed conflict'') is defined consistent with an international instrument relating to the law of war, and a U.S. Understanding to the Convention that is recommended to be made at the time of U.S. ratification. The final term (''State'') has the same meaning as that term has under international law.

Section 103. Effective Date

Since the purpose of Title I is to implement the Convention, section 103 provides that the new criminal offense created in Section 102 will not become effective until the date that the Convention enters into force in the United States. This will ensure immediate compliance of the United States with its obligations under the Convention.

TITLE II—SUPPRESSION OF THE FINANCING OF TERRORISM

Title II implements the International Convention for the Suppression of the Financing of Terrorism, which was signed by the United States on January 10, 2000, and was

transmitted to the Senate for its advice and consent to ratification on October 12, 2000. The Convention is not yet in force internationally, but will enter into force 30 days after the deposit of the 22nd instrument of ratification with the U.N. Secretary-General. Once in force, the Convention requires State Parties to combat terrorism by criminalizing certain financial transactions made in furtherance of various terrorist activities. The Convention also requires that State Parties criminalize conspiracies and attempts to undertake such financing.

Section 201. Short Title

Section 201 provides that title II may be cited as ''The Suppression of Financing of Terrorism Convention Implementation Act of 2001.''

Section 202. Terrorism Financing Statute

Section 202(a) adds a new section to the Federal criminal code, to be codified at 18 U.S.C. §2339C and entitled ''Prohibitions against the financing of terrorism,'' which makes financial acts covered by the Convention a crime. New section 2339C supplements and does not supplant existing Federal and State laws, and contains five subsections, which are described below.

Subsection (a) makes it a crime to provide or collect funds with the intention or knowledge that such funds are to be used to carry out certain terrorist acts. Conspiracies and attempts to commit these crimes are also criminalized. This subsection implements Article 2, paragraphs 1, 3, 4 and 5 of the Convention.

Subsection (b) establishes the jurisdictional bases for the covered offenses under section 2339C(a) and includes jurisdiction over perpetrators of offenses abroad who are subsequently found within the United States. This provision implements a crucial element of the Convention (Article 10), which requires all State Parties to either extradite or prosecute perpetrators of offenses covered by the Convention who are found within the territory of a State Party. The structure of this provision is designed to accommodate the structure of the Convention, which sets forth both mandatory and permissive bases of jurisdiction, and excludes certain offenses that lack an international nexus. Some portions of this provision go beyond the jurisdictional bases required or expressly permitted under the Convention, however, where expanded jurisdiction is desirable from a policy perspective because a unique Federal interest is implicated and is consistent with the Constitution.

Subsection (c) establishes the penalties for committing the covered crimes at imprisonment for not more than 20 years, a fine under title 18, United States Code, or both. This penalty is consistent with the current penalties for money laundering offenses. See 18 U.S.C. §1956.

Subsection (d) contains 13 definitions of terms that are used in the new law. Two of those definitions (''government facility,'' and ''proceeds'') are the same definitions used in the Convention. The definition for ''funds'' is identical to that contained in the Convention with the exception that coins and currency are expressly mentioned as money. The definitions for ''provides'' and ''collects'' reflect the broad scope of the Convention. The definition for ''predicate acts'' specifies the activity for which the funds were being provided or collected. These are the acts referred to in subparagraphs (A) and (B) of section 2339C(a)(1). The definition of ''treaty'' sets forth the nine international conventions dealing with counter-terrorism found in the Annex to the Convention. The term ''intergovernmental organization,'' which is used in the Convention, is specifically defined to make clear that it contains within its ambit existing international organizations. The definitions for ''international organization,'' ''serious bodily injury,'' and ''national of the United States'' incorporate definitions for those terms that already exist in other U.S. statutes. One of the definitions (''armed conflict'') is defined consistent with international instruments relating to the law of war. The final term (''State'') has the same meaning as that term has under international law.

Subsection (e) creates a civil penalty of at least $10,000 payable to the United States, against any legal entity in the United States, if any person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a) of the new section 2339C. This civil penalty may be imposed regardless of whether there is a conviction of such person under subsection (a), and is in addition to any other criminal, civil, or administrative liability or penalty allowable under United States law. Subsection (e) fulfills Article 5 of the Convention.

Section 203. Effective Date

Section 203 provides that those provisions of the Act that may be implemented immediately shall become effective upon enactment. However, two jurisdictional provisions will not become effective until the Financing Convention enters into force for the United States. Those provisions are the new 18 U.S.C. §§2339C(b)(1)(D) and (2)(B). In addition, new 18 U.S.C. §2339C(d)(7)(I), which is a definitional section specifically linked to the Bombing Convention, will not become effective until that Convention enters into effect.

TITLE III—ANCILLARY MEASURES

Title III, which is not required by the International Conventions but will assist in federal enforcement, adds the new 18 U.S.C. §§2332f and 2339C to several existing provisions of law.

Section 301. Ancillary Measures

Sections 2332f and 2339C are made predicates under the wiretap statute (18 U.S.C. §2516(1)(q)) and under the statute relating to the provision of material support to terrorists (18 U.S.C. §2339A). Sections 2332f and 2339C are also added to those offenses defined as a ''Federal crime of terrorism'' under 18 U.S.C. §2332b(g)(5)(B), as amended by the USA PATRIOT Act. P.L. No. 107–56. In addition, a provision is added to the civil asset forfeiture statute that makes this tool available in the case of a violation of 18 U.S.C. §2339C. These provisions are consistent with the treatment of similar Federal crimes already in existence.

TITLE IV—FOREIGN DISCLOSURE OF WIRETAP INTERCEPTS

This provision, which is not required by the International Conventions, clarifies that Federal law enforcement authorities may disclose otherwise confidential wiretap information to their foreign counterparts with appropriate judicial approval. This provision is intended to ensure effective cooperation between domestic and foreign law enforcement in the investigation and prosecution of international criminal organizations.

Section 401. Short Title

Section 401 provides that title IV may be cited as ''The Foreign Law Enforcement Cooperation Act of 2001.''

Section 402. Amendment to Wiretap Statute

Section 402 adds a new subsection to 18 U.S.C. §2517 that governs the disclosure of otherwise confidential information gathered pursuant to a Title III wiretap. This provision clarifies the authority of domestic law enforcement officers to disclose such information as may show a violation of either domestic or foreign criminal law to foreign law enforcement officials. The provision requires a court order prior to making such a disclosure and sets the standards for the issuance of such an order. It is intended to allow foreign disclosure only to enforce the criminal laws of either the United States or the foreign nation. It also requires that an attorney for the government certify that the foreign officials who are to receive the wiretap information have been informed of the Attorney General's guidelines protecting confidentiality. This provision is intended to enhance the ability of domestic law enforcement to work with their foreign counterparts to investigate international criminal activity at the same time as protecting against improper use of such wiretap information.

Mr. LEAHY. Madam President, we must act. The United States must lead the international community in the fight to end such terrorist bombings. This is precisely what the Leahy-Hatch substitute does. We have been trying to pass this legislation for 6 months. We have been trying to clear it. We have been involved with the White House to reach a consensus.

I thank Senator HATCH for his work, and the White House. We have worked out the whole matter with the White House and with Senators. I urge its passage. I urge its passage with as large a vote as possible.

I yield the remainder of our time.

Mr. ENZI. Madam President, I rise in support of H.R. 3275. I am very pleased that the Senate is considering this valuable legislation which would make the United States compliant with two very important treaties.

I believe one of our most significant duties, as the United States Senate, is the consideration of treaties for ratification. We alone have the responsibility to give advice and consent to international understandings and agreements made by the executive branch of our Government.

The two treaties this legislation addresses are part of a nearly four-decade process of conventions considering acts of terrorism. As we debate this legislation, we are examining long-term global means to address the threat of terrorism. The Convention on the Suppression of Terrorist Bombings and the Convention for the Suppression of the Financing of Terrorism require the United States and any country adopting the treaties to criminalize terrorist bombings and to criminalize direct or indirect financing of terrorist acts.

The Financing Convention addresses some of the issues we worked on last year. The Senate has already approved antiterrorism legislation that included provisions dealing with money laundering issues which help deter and punish terrorist acts and would enhance law enforcement investigatory tools. The legislation established rule-making procedures for the U.S. Treasury, clarified guidelines for international banking, and maintained accountability considerations for individuals and financial institutions. I believe it is imperative that we continue to address terrorist financing domestically as well as internationally. In response to requests by the United States, countries throughout the world began the

search for terrorists' financial assets. The freezing of these assets is a first step to the eradication of global terrorist organizations.

On September 28 of last year, the United Nations Security Council adopted Resolution 1373 which established a set of legally binding obligations for each member nation. Now, this is quite significant because there are not a lot of legally binding resolutions considered by the Security Council. Resolution 1373 requires each nation to prevent the financing of terrorism, deny safe haven to terrorists, and increase cooperation and information sharing in these efforts. Resolution 1373, which passed with our support, also directs nations to ratify all outstanding terrorism related conventions.

Nations, both allies and former adversaries, overwhelmingly acted to sign, ratify, and become compliant with a number of terrorism conventions. It has taken the United States nearly 9 months to do so. The Senate Foreign Relations Committee held a hearing on these treaties last October and approved them in November. The full Senate ratified the treaties in December.

Now, most people might think that once the Senate gives its advice and consent to a treaty, it is ratified and the United States is full party to the agreement. This could only be seen as a ''virtual'' ratification. It is not, however, until the United States is fully compliant with the treaty that the President can deposit our articles of ratification and we become full treaty members.

It is this last step where the Senate faltered. We had the House approved implementing legislation last December. We are only now, in June, contemplating its passage. We cannot drag our feet any longer.

Today we are considering implementing language. We are ready to vote. We are ready to make the United States compliant with important treaties that can help us fight against terrorism. The amendment language is identical to the version passed by the House in December. It is the right language, the appropriate language and should pass the Senate today.

I encourage my colleagues to support this amendment, support the fight against terrorism, and support making the United States compliant to these two valuable international agreements.

Mr. FEINGOLD. Madam President, I rise today to oppose a provision in H.R. 3275, the Terrorist Bombings Convention Implementation Act, and the proposed Leahy-Hatch amendment to S. 1770, the Senate version of this implementing legislation, which would authorize the use of the death penalty by the Federal Government.

This bill seeks to implement into Federal law the obligations of the United States under the International Convention for the Suppression of Terrorist Bombings and the International Convention for the Suppression of the Financing of Terrorism. The U.S. signed these conventions, which were later ratified by the Senate on December 5, 2001. These two conventions are vital to our efforts to fight terrorism. These conventions will fill an important gap in international law by expanding the legal framework for international cooperation in the investigation, prosecution, and extradition of persons who engage in bombings and financially support terrorist organizations. Both conventions require participating countries to pass specific criminal laws to implement those nations' obligations under the conventions.

But while these conventions do not require a death penalty, the House bill and the proposed amendment to the Senate bill would authorize the use of the death penalty by the United States. Not only do I oppose the expansion of the Federal death penalty at a time when Americans are questioning the fairness of the administration of this punishment, but I also fear that expanding the Federal death penalty through this implementing legislation will undermine our fight against terrorism.

I fear that the inclusion of a death penalty could actually thwart the purpose of these conventions. Instead of encouraging international cooperation in the fight against terrorism, this implementing legislation threatens to hamper international cooperation to prevent and punish terrorist bombings and financing of terrorist organizations. Many nations, including our closest allies in the fight against terrorism, may refuse to extradite suspects to nations where those suspects will face the death penalty. Already our allies like France and Germany have expressed their concerns about extraditing individuals or sharing information concerning al-Qaeda suspects out of concern that the United States will seek the death penalty against suspected terrorists. As this experience obviously shows, it doesn't serve the cause of justice, peace, or freedom to include a death penalty provision in this important bill.

Moreover, this is not the time to expand the Federal death penalty. Americans are increasingly recognizing that the current death penalty system is broken, and risks executing the innocent or applying the ultimate punishment disproportionately to those who may live in the ''wrong'' part of the country, have the ''wrong'' color skin, or just not have the money to pay for a ''dream team'' defense.

These problems plague the integrity of the justice system at the state and federal levels. A report released by the Justice Department in September 2000 showed troubling racial and geographic disparities in the administration of the federal death penalty. The color of a defendant's skin or the federal district in which the prosecution takes place can affect whether a defendant lives or dies in the federal system. Former Attorney General Janet Reno ordered a further analysis of why these disparities exist. And Attorney General Ashcroft has agreed to continue this study.

We have not yet seen the results of this study, nor have we had the opportunity to review and understand what the results might mean for the fairness and integrity of our federal justice system. While this important study is underway, Congress should not create even more death-eligible crimes.

As Governor George Ryan of Illinois said at a hearing I held on June 12th in the Senate Judiciary Subcommittee on the Constitution on the report of the Illinois Governor's Commission on Capital Punishment, ''especially after September 11, . . . the United States must be a model for the rest of the world. And that means our justice system should be the glowing example for the pursuit of truth and justice. It must be fair and compassionate.''

There is no question that we should prosecute and punish severely those responsible for the horrific attacks on our nation on September 11th or those who may plan or perpetrate acts of terror in the future. But I am very concerned that the bill's provision for the death penalty against suspected terrorists could undermine the purpose of the conventions and our ability to seek vital information and cooperation from other nations. I fear that the death penalty provision will weaken, not strengthen, our hand in pursuing terrorists, especially our global efforts to bring alleged terrorists to justice and to prevent future acts of terror.

For these reasons, I cannot in good conscience support H.R. 3275, the proposed Leahy substitute amendment to H.R. 3275, the proposed Leahy-Hatch amendment to S. 1770, or S. 1770, if the amendment should be adopted.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

TERRORISM RISK INSURANCE ACT OF 2002

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2600, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2600) to ensure the continued financial capacity of the insurers to provide coverage for risks from terrorism.

Pending:

Santorum amendment No. 3842, to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts.

Allen amendment No. 3838, to provide for satisfaction of judgments from frozen assets

of terrorists, terrorist organizations, and state sponsors of terrorism.

Brownback amendment No. 3843, to prohibit the patentability of human organisms.

Ensign amendment No. 3844 (to amendment No. 3843), to prohibit the patentability of human organisms.

AMENDMENT NO. 3842 WITHDRAWN

The ACTING PRESIDENT pro tempore. Under the previous order, the amendment numbered 3842 is withdrawn.

TERRORIST BOMBINGS CONVENTION IMPLEMENTATION ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Judiciary Committee is discharged from further consideration of H.R. 3275 and the Senate will now proceed to its consideration.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3275) to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes.

AMENDMENT NO. 3847

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Vermont, Mr. LEAHY, or his designee, is to be recognized now to offer an amendment.

Mr. LEAHY. Madam President, I call up my amendment which is at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY), for himself and Mr. HATCH, proposes an amendment numbered 3847.

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

The ACTING PRESIDENT pro tempore. Is there further debate on this amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 3847) was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and third reading of the bill.

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

The bill was read a third time.

Mr. LEAHY. Madam President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from North Dakota (Mr. CONRAD), the Senator from North Dakota (Mr. DORGAN), the Senator from Hawaii (Mr. INOUYE), the Senator from Vermont (Mr. JEFFORDS), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

I further announce that if present and voting, the Senator from North Dakota (Mr. CONRAD) and the Senator from New Jersey (Mr. TORRICELLI) would each vote ''aye.''

Mr. NICKLES. I announce that the Senator from Colorado (Mr. ALLARD), the Senator from Utah (Mr. BENNETT), the Senator from Kansas (Mr. BROWNBACK), the Senator from Kentucky (Mr. BUNNING), the Senator from Montana (Mr. BURNS), the Senator from Idaho (Mr. CRAPO), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Kansas (Mr. ROBERTS) are necessarily absent.

I further announce that if present and voting the Senator from Utah (Mr. HATCH) and the Senator from Kentucky (Mr. BUNNING) would each vote ''yea.''

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

The result was announced—yeas 83, nays 1, as follows:

[Rollcall Vote No. 154 Leg.]

YEAS—83

Akaka	Enzi	Mikulski
Allen	Feinstein	Miller
Baucus	Fitzgerald	Murray
Bayh	Frist	Nelson (FL)
Biden	Graham	Nelson (NE)
Bingaman	Gramm	Nickles
Bond	Grassley	Reed
Breaux	Gregg	Reid
Byrd	Hagel	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hollings	Sarbanes
Carnahan	Hutchinson	Schumer
Carper	Hutchison	Sessions
Chafee	Inhofe	Shelby
Cleland	Johnson	Smith (NH)
Clinton	Kennedy	Smith (OR)
Cochran	Kerry	Snowe
Collins	Kohl	Specter
Corzine	Kyl	Stabenow
Craig	Landrieu	Stevens
Daschle	Leahy	Thomas
Dayton	Levin	Thompson
DeWine	Lieberman	Thurmond
Dodd	Lincoln	Voinovich
Domenici	Lott	Warner
Durbin	Lugar	Wellstone
Edwards	McCain	Wyden
Ensign	McConnell	

NAYS—1

Feingold

NOT VOTING—16

Allard	Conrad	Jeffords
Bennett	Crapo	Murkowski
Boxer	Dorgan	Roberts
Brownback	Hatch	Torricelli
Bunning	Helms	
Burns	Inouye	

The bill (H.R. 3275), as amended, was passed.

UNANIMOUS CONSENT REQUEST

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, we are about to vote on the Allen amendment——

Mr. ALLEN. The Harkin-Allen amendment.

Mr. DASCHLE. I am sorry, the Harkin-Allen amendment. Once the Harkin-Allen amendment is disposed of, the pending business is the Ensign and Brownback amendments. I know Senator BROWNBACK could not be here today. So I ask unanimous consent that the Brownback amendment be set aside so that we can entertain other amendments.

The PRESIDING OFFICER. Is there objection?

Mr. ENSIGN. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Could you repeat the unanimous consent request?

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Ensign and Brownback amendments be set aside so we can entertain other amendments today and on Monday.

The PRESIDING OFFICER. Is there objection?

Mr. ENSIGN. I would have to object at this time until we can have a discussion about that.

The PRESIDING OFFICER. Objection is heard.

TERRORIST BOMBINGS CONVENTION IMPLEMENTATION ACT OF 2001

The PRESIDING OFFICER. Under the previous order, the Judiciary Committee is discharged from further consideration of S. 1770, and the Senate will now proceed to its consideration.

The clerk will report the bill by title.

The senior assistant bill clerk read as follows:

A bill (S. 1770) to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the Senator from Vermont, Mr. LEAHY, or his designee, is to be recognized to offer an amendment.

AMENDMENT NO. 3848

(Purpose: To propose a substitute)

Mr. LEAHY. Mr. President, I call up my amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. HATCH, proposes an amendment numbered 3848.

Mr. LEAHY. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

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

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3848) was agreed to.

The PRESIDING OFFICER. The clerk will read the bill for the third time.

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

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 1770), as amended, was passed.

Mr. LEAHY. I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TERRORISM RISK INSURANCE ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now continue consideration of S. 2600, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2600) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

VOTE ON AMENDMENT NO. 3838

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 3838. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from North Dakota (Mr. CONRAD), the Senator from North Dakota (Mr. DORGAN), the Senator from Hawaii (Mr. INOUYE), the Senator from Vermont (Mr. JEFFORDS), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. CONRAD) and the Senator from New Jersey (Mr. TORRICELLI) would each vote ''aye.''

Mr. NICKLES. I announce that the Senator from Colorado (Mr. ALLARD), the Senator from Utah (Mr. BENNETT), the Senator from Kansas (Mr. BROWNBACK), the Senator from Kentucky (Mr. BUNNING), the Senator from Montana (Mr. BURNS), the Senator from Idaho (Mr. CRAPO), the Senator from Utah (Mr. HATCH), the Senator from North Carolina (Mr. HELMS), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Kansas (Mr. ROBERTS) are necessarily absent.

I further announce that if present and voting the Senator from Kentucky (Mr. BUNNING) would vote ''yea.''

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

The result was announced—yeas 81, nays 3, as follows:

[Rollcall Vote No. 155 Leg.]

YEAS—81

Akaka	Enzi	Mikulski
Allen	Feingold	Miller
Baucus	Feinstein	Murray
Bayh	Fitzgerald	Nelson (FL)
Biden	Frist	Nelson (NE)
Bingaman	Graham	Nickles
Bond	Gramm	Reed
Breaux	Grassley	Reid
Byrd	Gregg	Rockefeller
Campbell	Harkin	Santorum
Cantwell	Hollings	Sarbanes
Carnahan	Hutchinson	Schumer
Carper	Hutchison	Sessions
Cleland	Inhofe	Shelby
Clinton	Johnson	Smith (NH)
Cochran	Kennedy	Smith (OR)
Collins	Kerry	Snowe
Corzine	Kohl	Specter
Craig	Kyl	Stabenow
Daschle	Landrieu	Stevens
Dayton	Leahy	Thomas
DeWine	Levin	Thompson
Dodd	Lieberman	Thurmond
Domenici	Lincoln	Voinovich
Durbin	Lott	Warner
Edwards	McCain	Wellstone
Ensign	McConnell	Wyden

NAYS—3

Chafee	Hagel	Lugar

NOT VOTING—16

Allard	Conrad	Jeffords
Bennett	Crapo	Murkowski
Boxer	Dorgan	Roberts
Brownback	Hatch	Torricelli
Bunning	Helms	
Burns	Inouye	

The amendment (No. 3838) was agreed to.

Mr. DASCHLE. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

CLOTURE MOTION

Mr. DASCHLE. Mr. President, a few minutes ago, prior to the vote we have just now taken, I asked unanimous consent to set aside the Brownback and Ensign amendments, and that was not agreed to. It is now my intention to file a cloture motion on the bill, and I ask that the cloture motion be read.

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

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 410, S. 2600, the terrorism insurance bill:

Harry Reid, Hillary Rodham Clinton, Jean Carnahan, Charles Schumer, Kent Conrad, Tom Daschle, Richard Durbin, Jack Reed, Byron L. Dorgan, Christopher J. Dodd, Debbie Stabenow, Jay Rockefeller, Maria Cantwell, Jeff Bingaman, Daniel K. Akaka, Evan Bayh, Joseph Lieberman.

Mr. DASCHLE. Mr. President, we will announce the time of the cloture vote which will, of course, occur on Tuesday morning, but I do hope Senators who are interested in the bill at the very least will express themselves today and on Monday. We will be in session on Monday.

I hope we can achieve cloture on the terrorism bill. Of course, that is still accommodating Senators who wish to offer amendments for a 30-hour period following the cloture vote should it be successful.

Senator LOTT and I have just been discussing the schedule for the remainder of the week. Once we have completed our work on the terrorism insurance bill, it will be my intention to move to the Defense authorization bill. I do not think that will take a motion to proceed, but certainly one will be offered if it is required. We will be on that for the remainder of the week and for whatever length of time it will take in the following week.

Senators should be reminded that we only have 2 weeks to go in this work period. We are hopeful we can accommodate a number of nominations and a lot of other work besides the Defense authorization bill and the terrorism insurance bill. At the very least, we are going to finish those two pieces of legislation prior to the time we leave.

I will announce later today the time for the vote on cloture, but it will be Tuesday morning. I urge my colleagues to be present for that vote. I yield the floor.

Mr. LOTT. Mr. President, will the distinguished majority leader yield? I want to clarify again that the majority leader does not anticipate recorded votes on Monday, even though we will be in session for debate and for, I guess, amendments to be offered; is that correct?

Mr. DASCHLE. The distinguished Republican leader is correct. Earlier he may recall that we announced some no-vote Mondays. This particular Monday is one of the no-vote Mondays, so-called, so I am going to respect that commitment. Senators have made scheduling decisions. Certainly we will be in session. As I say, it will be an opportunity for people to come to the floor to speak to the bill.

It is unfortunate we have not been able to get agreement to set the amendments aside because I think it would offer other Senators the chance to offer additional amendments. Barring that UC, we will expect to be in session without the additional consideration of other amendments.

Mr. LOTT. Mr. President, if I can continue, I certainly understand and support the decision to identify certain dates for a variety of reasons when Senators are aware there will not be votes, but I emphasize again, as the majority leader has, it does not mean we cannot be in session and get a lot of work done.

Also, I understand why Senator DASCHLE feels a necessity to file cloture. Obviously, we discourage each other from doing that, but in order to move forward after a reasonable period of time—I have done it many times on this terrorism insurance issue, while there are some other amendments, hopefully germane amendments, that will and can be offered and debated and

considered, in order to get to the Defense authorization bill and complete our work before the Fourth of July recess, we need to complete this bill in a reasonable period of time—Tuesday or Wednesday—and then go right to Defense authorization.

I commend the Senator for making that decision. There are a lot of other bills Senators on both sides are pushing the majority leader to do, meritorious or otherwise. This is very important.

I encourage Senators on both sides of the aisle, when we get to the Defense authorization bill, let's not use this as a grab bag. We have lots we need to do in this area. We are talking about a pay raise for our military men and women. We are talking about quality-of-life issues. We are talking about basic decisions about the future of our defense for our country. There will be plenty other opportunities to offer unrelated, nongermane amendments.

I believe Senator WARNER and Senator LEVIN will be ready to go. There will be disagreements and heated debate on some of the amendments. Some will take time. I believe the managers are ready to go and will make good progress on it and be assured we can get it done without it being very messy.

I appreciate the decision Senator DASCHLE has made. I think it is the right thing for the Senate, for the military, and for our country.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I thank the Senator as always for his cooperation. This is an important schedule. We know we have to finish the work on terrorism insurance. We know we have to deal with the Defense authorization bill. The Senator from Virginia and the Senator from Michigan have been ready to go for a couple of weeks. It should be a good debate.

I also agree with the distinguished Republican leader that this should not be the grab bag, this should not be the vehicle that attracts extraneous legislation. Let's get it done and done cleanly and move on to other matters that are important as well.

Mr. LOTT. Mr. President, I wish to make one other point, if I can be recognized in my own right, before Senator WARNER leaves. Senator DASCHLE and I have also been talking about ways to move forward on nominations. Hopefully, we are coming up with a process that will allow us to make good progress across the board on nominations in the next couple of weeks. I am looking forward to continuing work on that also.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, on behalf of the members of the Armed Services Committee, I thank both of our leaders for recognizing the need to move to the Defense authorization bill. That hopefully will then set the stage for the Defense appropriations bill to follow in an orderly manner.

Just moments ago, the chairman of our committee, the Senator from Michigan, Mr. LEVIN, and I conferred with the leadership. I think I can speak on behalf of the chairman that we are both ready to go, and we will be prepared to bring up some of the more, should we say, controversial amendments early on so that those issues can be addressed and hopefully thereafter we can move quickly through the other provisions of the bill.

I thank the Chair, and I thank the leadership.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I am a strong supporter of this legislation and wish to praise my Connecticut colleague, Senator DODD, for his diligence in crafting a workable solution to the terror insurance issue. As we all know, this has been a frustrating process and Senator DODD has proven to be tenacious in the quest to enact this legislation into law. He is performing a valuable and mostly unsung public service.

Let me explain why I believe this issue is so important and why Senator DODD's work is so important.

As part of their property and casualty insurance, many businesses have insurance against the costs that arise if their business is interrupted. If we don't pass an effective terror insurance bill, there will be a massive interruption in the business community. We can avoid this result by passing this legislation.

Property and casualty insurance is not optional for most businesses. Not every business owner buy life insurance, but nearly every business buys property and casualty insurance—to protect its property, to protect it against liability, and to protect its employees under the State workers compensation laws. Property and casualty insurance is required by investors and shareholders. It is required by banks that lend for construction and other projects.

We all know that home mortgage companies require the homeowners to maintain homeowners property insurance, and it's the same with business lending.

Maintaining property and casualty insurance is mandated as part of the fiduciary obligation to the business. And if property and casualty insurance for major causes of loss is not available, or it is prohibitively expensive, businesses face a difficult choice about going forward with construction projects, and other ventures. If no insurance is available, banks won't lend and the business activity that is depending on the loans will stop. The impact on the real estate, energy, construction, and transportation sectors will be severe.

For their part, insurance companies must be able to ''underwrite'' their policies. This means that they need to be able to assess their exposure or risk of a claim. They need to know if their exposure to claims is acceptable, excessive, or indeterminate. In the case of claims for damages caused by terror attacks, there is not way to assess their risk and no way to underwrite the policy. There are too many uncertainties.

One thing that is certain, as it was not before September 11, is that losses from terrorist acts can cost tens of billions of dollars. In fact, under the worst-case scenarios, losses could easily reach hundreds of billions of dollars.

There are hundreds of insurers in any given market. It is a highly competitive industry. But these insurers are dependent on reinsurers who help insurance companies spread their risk. When reinsurers will not renew their contracts unless they contain terrorism exclusions or limitations, many if not most of the insurance companies will not be able to provide terrorism coverage—at any cost.

Insurance companies need reinsurance because their own capital to cover losses is finite.

Even a good sized company—one that would be in the top half dozen or so commercial insurers in the U.S.—with perhaps 5 percent of the commercial lines market and capital of $7 or $8 billion—would have to ask, do we want to roll the dice on our very survival by writing terrorism coverage and covering it with our own reserves?

That is not a risk that an insurance company will take. If we do not pass this legislation, therefore, insurers will take whatever steps they consider necessary to ensure they do not drive themselves into bankruptcy.

The insurance industry can protect itself by reducing its exposure to terrorism claims. There is nothing we can do in the Congress—within the limits of our Constitution—to require insurance companies to write policies. They don't have to write policies. If they don't write policies, or write them only with extraordinary premiums for terror coverage, the companies may not be as profitable in the short run, but they will at least be protecting themselves against involvency.

State regulators are already considering terrorism exclusions—as they should do, consistent with their responsibilities to oversee the solvency of the insurance industry. Absent exclusions, in states where they might not be approved for one reason or another, the insurers will have no choice but to limit their business.

If insurance companies are permitted to write policies with no coverage for claims connected to terrorism, then businesses will have to decide if they will self-insure against these losses. Many of them will conclude that they cannot accept this exposure.

Therefore, if we fail to pass this legislation, it will be everyone that the insurance companies they insure that loses. Insurance companies can protect themselves by not writing policies, or writing only policies without any coverage for acts of terror, or writing policies with extraordinary premiums. But companies that need insurance coverage may have even harsher options.

So, the issue is how we enable enough insurance companies to determine that the risk of terrorist claims is a risk that they can assume.

That is what this legislation is all about—defining the risk so that insurers can assess and put a price on it. This legislation is about facilitating insurance companies' ability to continue to write property and casualty insurance policies. It is about providing business owners with the opportunity to buy insurance against terror claims and doing so in the private market to the extent that is possible.

This is, of course, not the first time we have faced this kind of an issue. The Federal Government has a history of partnering with the insurance industry to provide coverages for risks that are too big—too uninsurable—for the industry alone.

Current examples are the flood, crop, and nuclear liability programs, and in the past we've seen partnerships on vaccine liability and riot reinsurance. From an insurability standpoint, these risks are probably more insurable than terrorism.

Some might debate whether we should have passed the existing programs, or whether they are operated efficiency. But there should be no debate about the need for a terrorism program, and Senator DODD has structured this one the right way—with retentions and loss sharing by the industry, so the incentives are there for efficient operations.

Again, I congratulate my Connecticut colleague, Senator DODD, for his diligence in working through these complicated issues and bringing this bill to the floor. We need to defeat the amendments and enact this legislation into law as soon as possible.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to address the Senate as in morning business for 4 minutes.

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

AIR FORCE STAFF SERGEANT ANISSA SHERO

Mr. ROCKEFELLER. Mr. President, I have the sad duty to report another death of a West Virginian in Afghanistan. For many generations, the people of West Virginia have answered the call and many have paid with their lives. West Virginians understand the cost of freedom and have always been willing to pay that cost when called for duty.

Today we are reminded again how much that cost is because we now know of the death of Anissa A. Shero in Gardez, Afghanistan. She is from Grafton, WV. This was a tragic death in an airplane crash. She is the first woman Air Force casualty in the war in Afghanistan. She was married to SSgt Nathan Shero this past September, 2001. She had just been married. He is also deployed.

Her father was a disabled Vietnam war veteran who lost both of his legs as a result of a casualty, and her grandfather fought in the Battle of the Bulge in the Second World War. She was a volunteer who chose to serve her country in the face of grave danger. When terrorists struck, she was there. She left behind the mountains of West Virginia, in a sense, to go to the mountains of Afghanistan, to risk her life so our lives would be freer and safer.

She was part of an extraordinarily successful effort to eradicate the Taliban and to make tremendous disruption to and demoralize the al-Qaida forces, and again to give us more freedom and hope. Men and women in both nations are safer now because of her work, and unfortunately because of her death.

All of us who value freedom owe Sergeant Shero a profound debt of gratitude and honor, and I know the thoughts and prayers of many people in this Chamber, the other body, and all over America, certainly all over West Virginia, are like mine, with her family and her friends. She represented the very best of West Virginia and the very best of America. She was strong, courageous, and dedicated. She will forever serve as a role model for West Virginians, for men and women alike, who love their country and who, like her, know that our ideals are worth fighting for.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. HAGEL. Mr. President, I ask unanimous consent that I be allowed to address the Senate as in morning business.

Mr. SARBANES. Mr. President, may I inquire how long the Senator is asking for?

Mr. HAGEL. I would need no more than 15 minutes.

The PRESIDING OFFICER. The Senator is recognized for up to 15 minutes.

PEACE IN THE MIDDLE EAST

Mr. HAGEL. Mr. President, I rise today to address an issue of urgent concern for American foreign policy: the situation in the Middle East and its implications for our war on terrorism.

Yesterday the majority leader offered three principles to guide our policy in the Middle East. I share his concern about the gravity of the situation we face and his affirmation of American support for Israel, and the imperative of American leadership in helping bring about a lasting peace in the region.

Time is not on our side. In April, I spoke before this body in support of President Bush's leadership in bringing a diplomatic resolution to this conflict. I applaud the President and his team for their progress so far in assembling the pieces of a potentially historic agreement and coalition for peace. But we are still only at the beginning of a long and difficult process.

What happens in the Middle East cannot be separated from our interests in the war on terrorism. If we fail in peace-making between Israel and her neighbors, there will be grave consequences for the United States, Israel, and the world. We will further empower the terrorists and extremists, those who thrive, find refuge, and recruit in conditions of poverty, violence, and despair. We must help secure a vision of hope for the people of the Middle East in order to reclaim the peace initiative.

It is time to put the endgame up front in the Israeli-Palestinian conflict. The Palestinians must have a state, with contiguous and secure borders, and Israel must have a state without terrorism and with secure borders. President Bush endorsed the concept of a Palestinian state in a historic speech to the United Nations last year. If we do not address this, the core political issue of this conflict, we will allow the extremists on both sides to win. And then we will all lose: Palestinians, Israelis, Arabs, Americans, the world.

Strong, engaged, steady, and visionary American leadership is a predicate for the future of the Middle East. The Arab League peace proposal, at the initiative of Crown Prince Abdullah of Saudi Arabia, calls for normal relations between Israel and the Arab world and presents a unique and historic opportunity for peace. The Bush administration may be considering recognizing a transitional or provisional Palestinian state, with the specific details to be worked out over time, an idea similar to the Peres-Abu Ala agreement of last year. The so-called ''Quartet''—US, Russia, the EU, and the UN—provides an international context for this possibility and a revived diplomatic track.

The pieces may be in place, the image of an idea for peace forming on the horizon, although the work ahead will be difficult. There are no easy answers or risk-free options. We can no longer defer the tough decisions on Israeli settlements, Palestinian refugees, borders, and the status of Jerusalem. The time for a step-by-step sequential process has come and gone. We are close to reaching a line of demarcation, where only bold and courageous leadership on all sides can show the way to a resolution.

Israel must make some hard choices for peace. It knows that military means alone will not end terrorism. Settlements in the occupied West Bank and Gaza must end. Israel should withdraw its military from the Palestinian towns it has re-occupied, as soon as the security situation allows. The emphasis for Israel must be on developing a coalition of common interests including our Arab allies and the United States to form the core of a peace coalition. Israel should move closer to this coalition and away from isolation and reliance on only the military option to ending the crisis.

The Israeli people have suffered too much and too long from terrorism. It

must end. America will continue to stand by our friend and do what we must to help secure a peace and Israel's survival. But America's support of Israel should not be at the expense or exclusion of our relationships with our Arab friends and the Palestinian people. It need not be. America is against terrorists, America is not against Arabs or Palestinians. We are and can be a friend and supporter of all sides. We must be, or there will be no hope and no peace.

This also means that we will not retreat from our support of democratic principles, values, and expectations. We will not trade friendship and freedom for expediency and peace.

The other Arab leaders of the region must play a major role in this revived peace process. They have serious responsibilities and significant self-interests in helping end terrorism and resolving this conflict. There is no longer room for ambiguity or criticism from the sidelines. Abdication of responsibility or subtlety is no longer an option.

Crown Prince Abdullah, King Abdullah of Jordan, and President Mubarak of Egypt and other Arab leaders clearly understand the high stakes and are willing to take risks for peace. The prospects for getting a peace process back on track is best served when the risks are shared.

The Palestinian leadership must respond to the challenge and opportunity before it. Terrorism does an injustice to the Palestinian struggle for self-determination. A Palestinian state cannot be born from and committed to terrorism and hostility toward its neighbor.

It is a tragedy that the Palestinian people have been linked in the minds of many people—many Americans, to the methods of terrorists and extremists who represent only darkness and hatred, not the aspirations of most Palestinians for statehood and a life of hope and peace.

Real reform and change within the Palestinian Authority has become a condition of any peace agreement. This must happen—and happen now. The present Palestinian government must stand up and show a leadership that has been lacking for too long. The current Palestinian leaders must be accountable and take responsibility for the future of the Palestinian people. Terrorism and violence are not the means to statehood and legitimacy.

American and Israeli pressure and intervention, however, can not be the final determinants of a new Palestinian leadership. An alternative Palestinian leadership, as Foreign Minister Shimon Peres told me a couple of months ago, may be either too weak to make peace or too radical to even consider it. This will certainly be the case if alternative leadership is perceived as primarily the result of American or Israeli collaboration.

There are those in the Palestinian movement that have been speaking out for democracy and against corruption in the Palestinian Authority for some time. Hanan Ashrawi and Mustafa Barghouti, as well as many others, have been taking risks for democracy for Palestinians and transparency in Palestinian governance long before it became a condition for a renewed peace process.

Leaders of the Arab world must take more responsibility for Palestinian leadership. They cannot look away. It is now far too dangerous for them to allow further drift in the Middle East.

In considering the difficult road ahead, I understand the political constraints and risks that Israel and our Arab friends face in moving forward with peace. But it is better to share the risk than leave the field to the terrorists and extremists who will fill the leadership vacuum.

The problems in the Middle East affect and influence all aspects of our foreign policy, including our leadership in the war on terrorism. The Arab-Israeli conflict cannot be separated from America's foreign policy. Actions in the Middle East have immense consequences for our other policies and interests in the world. We are limited in dealing with other conflicts until this conflict is on a path to resolution.

America's policy and role in the Middle East, and the perception of our policies and role across the globe, affects our policies and interests in Afghanistan, South Asia, Indonesia, and all parts of the world. We cannot defeat terrorism without the active support of our friends and allies around the world. This will require an enhancement of our relationships, not an enhancement of our power. It will require America's reaching out to other nations. It will require a wider lens in our foreign policy with a new emphasis on humanitarian, economic, and trade issues as well as military and intelligence relationships.

We need the active support and involvement of Egypt, Saudi Arabia, Jordan, and the other states of the Middle East to defeat terrorism. The potential for isolating them on one side, with the United States and Israel on the other, is the wrong path. The alternative to developing coalitions of common interest in the Middle East and our war on terrorism is a region afire with radicalism and rage directed at Israel and the United States. We cannot wait. We cannot defer the peace timetable to the perfect time for peace. There is no perfect time for peace or perfect set of dynamics for peace. It will happen because we make it happen. We must seize the time we have, with all its imperfections.

The perception of American power becomes the reality of American power. If we fail in our diplomatic efforts to help bring peace to Israel and her neighbors, and isolate ourselves and Israel in the process, our security and Israel's security will become more vulnerable and the world more dangerous.

We need to keep our eye on the objectives: peace between Israel and its neighbors and victory in our war on terrorism. I close by joining my colleague, the majority leader, in encouraging President Bush not to risk unraveling the progress we have made so far in the Middle East by allowing a period of inattention and inaction to drag us all back into a dark abyss of despair and danger. A conference or some tangible relevant framework for peace must be announced and organized soon. The stakes have rarely been so high, the opportunities so great, and the margins for error so small.

CLONING

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, the matter before the Senate at the present time is an amendment offered by my friend, Senator BROWNBACK. I will address the issues raised by that amendment.

We are considering a question that is of vital importance for every American affected by diabetes, cancer, Parkinson's disease, or other serious disorders. That question is whether we will permit a type of life-saving medical research to achieve its full potential to heal illnesses and cure disease—or whether we will stop this promising research dead in its tracks and deny its benefits to millions of Americans.

We all know where Senator BROWNBACK stands on the issue of medical research using the breakthrough new technique of nuclear transplantation. My friend from Kansas wants to ban this research forever. That's the position he has stated time and again in this Chamber and in forums across the country. And that is what the amendment that he offers today will accomplish.

Members of this body have spent long, serious hours grappling with the complex scientific and ethical issues raised by the issue of human cloning. Senators know the difference between human cloning and medical research. Human cloning produces a human being. Medical research is done in a laboratory dish and produces cells. But these cells can be used by doctors to develop astonishing transplants that will never be rejected by a patient's own body.

A majority of the Senate opposes any legislation to ban, even temporarily, the lifesaving research on nuclear transplantation that brings such hope to so many of our constituents. In the innocuous guise of an amendment to suspend certain aspects of the patent law, my friend from Kansas is trying to accomplish the goal he has long sought—banning medical research that uses nuclear transplantation.

The Brownsack amendment does many things. First, it bans patents on any cloned human being. It seems to me that if we want to ban human cloning, then we should ban it—pure

and sample. I introduced legislation with Senator ARLEN SPECTER, Senator FEINSTEIN, and Senator HATCH to ban human cloning in a straightforward way. Our legislation makes human cloning a crime punishable by 10 years in prison and substantial fines. That's the way to prohibit cloning.

Using cloning to reproduce a child is improper and immoral—and it ought to be illegal. I think that every Member of the Senator would agree on this point.

Some want to use our opposition to human cloning to advance a more sweeping agenda. In the name of banning cloning, they would place unwarranted restrictions on medical research that could improve and extend countless lives. In a letter to the Congress, 40 Nobel Laureates wrote that these restrictions would ''impede progress against some of the most debilitating diseases known to man.''

Of course we should reject the offensive idea that human beings could be patented, as the Patent Office already rightly does. But the Brownback amendment goes far belong this commonsense proposal. It is so broadly written as to ban patents on single cells derived from medical laboratory research using cloning techniques. It even bans patents on the processes used to conduct this important medical research.

Why would my friend from Kansas propose such sweeping bans on patents? He offers this proposal precisely because he knows that if it is enacted, it will eviscerate this research.

The extraordinary progress in medical research that we have seen in recent years relies on two great motors of innovation: NIH funding and a dynamic private biotechnology sector.

But when it comes to vital research using nuclear transplantation techniques, one of those motors has already been broken. There are no research grants being given by NIH or any other Federal agency for this research. There never have been, and under this administration, there never will be.

If we had allowed our Nation's great research universities to conduct extensive nuclear transplanation research, there's no telling what medical miracles we might have seen by now. Perhaps scientists using NIH funds could have already developed replacement cells for little children with diabetes that would never run the risk of tissue rejection. Perhaps those same NIH-funded scientists could have developed new cures for those whose minds and memories slowly ebb away on the tide of Alzheimer's disease.

Fortunately, we have a robust and dynamic biotechnology industry where new cures are developed and new discoveries made. Because NIH will not fund nuclear transplantation research, every major discovery in this field has come from funds provided by biotechnology companies.

But the biotechnology industry runs on patents. Abraham Lincoln said that the patent system ''added the fuel of interest to the fire of genius.''

The Brownback amendment would permanently shut off the supply of that fuel. It would accomplish Senator BROWNBACK's long-held goal of banning this medical research entirely. NIH already can't fund it and the Brownback amendment would make sure no biotechnology company would touch it.

Instead of debating peripheral issues like patents, we should be debating the question that's at the core of this debate, whether we should allow or prohibit a type of medical research that bring hope to millions of Americans simply because it seems new or strange to some people.

We offered our opponents on this issue the opportunity for a debate, but they declined that offer. I am saddened by this decision, because I believe that these issues deserve to be debated thoroughly on their own merits, not hastily considered as part of legislation on insurance. I hope that we will have the opportunity for a full debate on the issue of cloning, as I know it is of profound interest to many of our colleagues. It has been my privilege to take part in some of the other great debates we have had over the years on issues raised by the progress of science.

In the 1970s we debated whether to ban the basic techniques of biotechnology. Some of the very same arguments that are raised against nuclear transplantation research today were raised against biotechnology back then. Some said that it would lead to ecological catastrophe or genetic monsters. Critics told us that the new science of recombinant DNA research was unproven and untested. They said that it might never yield new cures and that its benefits would never materialize.

We could not know in the 1970s all the incredible advances that recombinant DNA research would bring, not only in medical breakthroughs, but in so many different aspects of our lives. We didn't know then that DNA fingerprinting would one day ensure that criminals are punished and the wrongly imprisoned are released. But that is what is happening today. We did not know then that scientists would learn to put thousands of genes on a tiny chip, so that medicines can be customized for the genetic signature of an individual patient. But that is what is happening today. We did not know any of this in the 1970s. But we did know that recombinant DNA research offered extraordinary promise and that it should not be banned.

Because Congress rejected those arguments then, patients across America today can benefit from breakthrough new biotechnology products that help dissolve clots in the arteries of stroke victims, fight leukemia, and help those with crippling arthritis lead productive lives.

When in vitro fertilization was first developed in the 1980s, it too was bitterly denounced. And once again, there were calls to make this medical breakthrough illegal. Because Congress rejected those arguments then, thousands of Americans today can experience the joys of parenthood through the very techniques that were once so strongly opposed.

Even heart transplants once seemed new or strange. Some denounced the idea of taking a beating heart from the chest of one person and placing it in the body of another.

But this debate is not about abstract ideas or complex medical terms. It is about real people who could be helped by this research. Dr. Douglas Melton is one of the nation's foremost researchers on diabetes. For Dr. Melton, the stakes involved in this research could not be higher. His young son, Sam, has juvenile diabetes, and Dr. Melton works tirelessly to find a cure for his son's condition.

One of the most promising areas of research on diabetes involves using stem cells to provide the insulin that Sam, and thousands of children like him, need to live healthy, active lives.

But a shadow looms over this research. A patient's body may reject the very cells intended to provide a cure. To unlock the potential of stem cell research, doctors are trying to reprogram stem cells with a patient's own genetic material. Using the breakthrough technique of nuclear transplantation, each one of us could receive transplants or new cells perfectly matched to our own bodies. Can we really tell Sam Melton, and the millions of Americans suffering from diabetes, or Parkinson's disease, or spinal injuries that we won't pursue every opportunity to find a cure for their disorders?

Some who support the Brownback proposal say that the science is still uncertain, that we should delay this research because we can not predict what avenue of scientific inquiry will be the quickest pathway to a breakthrough.

The Brownback amendment makes certain that breakthrough cures will never see the light of day. If Congress adopts that proposal, we can be certain that doctors will never use this medical research to develop new pancreas cells for diabetics that are perfectly matched to the patient's own body. We can be certain that doctors will never use these techniques for important new insights into the basic mechanisms of Parkinson disease or Alzheimer's disease. We can be certain that patients in every community in every State in the Nation will be denied the hope and the benefits that this research brings.

That is the kind of certainty the Brownback amendment brings. If you want to accept this false and dangerous certainty, then you should vote for his amendment.

But if you want to promote life saving medical research, if you want to side with patients, if you want to take a chance on hope, then I urge you to vote for patients, for medicine, for hope and for the bipartisan proposal that I have introduced with Senator

SPECTER, Senator FEINSTEIN, Senator HATCH, and many other colleagues.

I yield the floor.

The PRESIDING OFFICER (Mrs. FEINSTEIN). The Senator from Ohio.

Mr. DEWINE. I thank the Chair.

(The remarks of Mr. DEWINE and Mr. KENNEDY pertaining to the introduction of S. 2626 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

CLONING

Mrs. FEINSTEIN. Mr. President, I listened to the distinguished senior Senator from Massachusetts speak on the cloning issue. I thought it might be a good opportunity to offer a few thoughts on that issue.

When one says cloning, most people automatically think of human cloning. They don't know that there is an aspect of it which is called nuclear transplantation or stem cell research. The two issues become somewhat blurred. In fact, if you ask people, do they think stem cell research should proceed, the answer you get invariably, once they understand it, is yes.

I deeply believe that stem cell research today in America is one of the brightest scientific fields we know of and offers unparalleled hope and opportunity for so many victims of a myriad of chronic, debilitating, and often fatal diseases. It is the bright rainbow out there in medical research.

I understand last night the Senator from Kansas placed an amendment before the body. I rise to indicate my strong opposition for that amendment. As I understand it, it would prevent stem cell research from going ahead. I also know there is discussion in the Halls of this distinguished body about presenting legislation for a 2-year moratorium on both human cloning and stem cell research. I would oppose that as well.

What would that say to an ALS victim who maybe has 5 years to live with the understanding that all research which could be of help to that victim will be stopped for 2 years? It is a mistake. It is throwing the baby out with the bathwater. It should not happen.

A number of us, including the Presiding Officer, have put together a bill on a bipartisan basis which satisfies the overwhelming majority of the people in America as well as a substantial majority of this body. It says: We recognize the fact that the cloning of a human being is unacceptable. It is immoral, and it should not be done. Therefore, our legislation would make it a crime punishable by up to 10 years in prison to clone or attempt to clone a human being, without exception. It would establish a fine of $1 million or three times any profits made, whichever is greater, on any person who clones or attempts to clone a human being. The financial penalty is in addition to the 10-year prison term.

It is very strong. It is definitive on making the cloning of a human being illegal and subject to a 10-year prison sentence and strong fines.

The beauty of our legislation is that it would also allow this most promising form of stem cell research, somatic cell nuclear transplantation, to be conducted on a human egg for up to 14 days only, under strict standards and Federal regulation. This 14-day requirement is consistent with the standard established in the United Kingdom and recommended by the California Advisory Committee on Human Cloning. There is precedent for it.

The reason for 14 days is to limit any research before the so-called primitive streak can take over that egg.

This stem cell research can only take place on an unfertilized egg. This is important because many of the opponents of stem cell research say: Aha, this is an organism capable of being a living being.

It is no different than a clump of blood cells. They are alive. Those blood cells are not capable of becoming a human being.

Skin cells are alive. They are not capable of becoming a human being, nor are any cells in the human body capable of that. An unfertilized egg is not capable of becoming a human being. Therefore, we limit stem cell research to unfertilized eggs.

We would ban profiteering and coercion by requiring that all egg donations for this stem cell research be voluntary, and that women who donate eggs can only be compensated minimally—large payments to induce donation would be prohibited.

We would prohibit the purchase or sale of unfertilized eggs, something called oocytes or blastocysts. We would require that nuclear transplantation occur in laboratories, completely separate from labs that engage in invitro fertilization, to prevent a ''blurring of the lines,'' to avoid the risk that eggs used in legitimate and important nuclear transplantation research would then be implanted in a woman.

We would prohibit the export of eggs that have undergone nuclear transplantation to any foreign country that does not ban human cloning. This prohibition is designed to avoid the risk that valuable research in the United States will result in a human clone anywhere in the world.

We include strong ethics requirements that mandate informed consent by egg donors, review of any nuclear transplantation research by an ethics board, and safety and privacy protection. And we have applied to this the strict Federal regulations that are appropriate in this area.

Any researcher who violates the bill's ethics requirements—even without attempting to clone a human being and becoming subject to the 10-year prison term and $1 million fine—will face civil penalties of up to $250,000 per violation.

So the legislation that you, Senator HATCH, Senator SPECTER, Senator HARKIN, Senator THURMOND, and myself, in a bipartisan way, have put together, we believe, offers this body the soundest approach to make human cloning illegal and, yet, to permit stem cell research to go ahead only on an unfertilized egg, only up to 14 days with strict ethical and Federal regulatory standards; to prohibit export to any country that permits human cloning; to separate it from in vitro fertilization, so there can be no blurring of the lines.

I think it is a bill that is well thought out, a bill that will stand the test of time and, most importantly, it is a bill that, while prohibiting the cloning of the human, will permit this bright rainbow of research to go forward.

Mr. President, you and I know that today there are 90,000 people awaiting organs or tissue replacement. We know that 4,000 people a year die because they didn't get it or because their body rejects that organ. Let's talk about what stem cell research is.

You have a human egg. That egg is unfertilized. Before it exists for 14 days, its nucleus is withdrawn. Into that space of the nucleus in this egg is injected the DNA from a sick person—a person who may have cancer, or ALS, or a brittle child who may be subject to amputation, blindness or death; it could be a Parkinson's patient or a burn patient. That egg is then forced to differentiate. As it goes through that period, it then can be encouraged to grow into tissues, or an organ, which then, when given to the sick person, there will be no rejection of that tissue or that organ. It also can be used with blood. It also can be used for cancer patients.

I cannot stress too much, when we get to the actual debate, there is anecdote after anecdote of individuals who have lost hope, for whom stem cell research gives back that hope. We have 40 Nobel laureates supporting us. We have hundreds of patient advocacy groups all across this Nation supporting us. We have the hopes and dreams of hundreds of thousands of people who are otherwise condemned to a life of disability.

Mr. President, you and I stood at a press conference with Christopher Reeve, one of America's great and talented human beings. We listened to him plead to be able to go ahead because this is the first time that, if you have had your spine severed, there is an opportunity to regenerate, to do something that has never been done in history—to give a paraplegic or a quadriplegic the opportunity to walk again.

In the Judiciary Committee, we heard testimony from a young woman by the name of Chris Golden. She was an Arlington, VA, police officer and a marathon runner. She was out running and she was hit by a car and her spine was severed. All of her dreams and hopes of continuing in the Arlington Police Department and of running once again were severed. She says she now hopes and dreams that one day she will wake up and they will have found a treatment that can regenerate her spinal system. Instead, today she wakes up to a wheelchair, and she even has a problem being able to brush her teeth.

There is story after story of people who have lost hope and, because of this new scientific frontier, they can have hope again.

Life is for the living. It is important to improve that life. I cannot understand how people want to resist this. I cannot understand how they would prevent stem cell research. I cannot understand how they would say an unfertilized egg is something we have to protect, when women lose hundreds of these every month. It makes no sense. It is arbitrary; it is capricious; it is unscientific; it is wrong. And, yes, if we know of hundreds of thousands of suffering Americans who might be helped, it is also immoral.

So those of us who have put together this legislation believe it will stand the test of time. We are very close today to that 60-vote necessity to move ahead with it. So I am hopeful that sometime during next week we will be able to say, yes, in fact we have the 60 votes and, yes, in fact the Senate of the United States of America is going to stand tall to cross this frontier of stem cell research and be able to offer the hope and the dream of a good life to literally hundreds of thousands of people.

I thank the Chair and I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to a period for morning business, with Senators allowed to speak for a period not to exceed 10 minutes each.

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

NATIONAL SMALL CITIES DAY

Mr. DASCHLE. Madam President, today is National Flag Day, and it is appropriate that we all pause to honor this important symbol of American Freedom. The National League of Cities has designated this day, June 14, 2002 as second annual National Small Cities Day to call attention to the role of small cities and towns in American life.

The vast majority of cities throughout our Nation have populations of fewer than 50,000 people. These communities play an essential role in nurturing families, cultivating values, and building a strong sense of commitment and connection. In fact, the theme for National Small Cities Day is building quality communities by making decisions by choice and not by chance.

Millions of Americans live better lives because small cities provide services and programs that meet the needs of their citizens. In the wake of the September 11 terrorist attacks, millions of Americans have looked to the leaders of their small communities to help ensure their safety and security by working in partnership with other levels of government.

Businesses, civic organizations, and citizens across the nation are partners in building quality communities and must be encouraged to continue to support efforts that make these cities and towns better places in which to live. The Federal government, too, must continue to be a good partner by supporting important efforts that help strengthen communities, such as the Community Oriented Policing Program, the Community Development Block Grant program, and funds for local terrorism preparedness programs.

We must continue to work together and look for ways to further strengthen our small cities and towns through creativity, innovation, and collaboration.

I join the National League of Cities and the Small Cities Council in encouraging President Bush, my Congressional colleagues, state governments, community organizations, businesses, and citizens to honor the efforts of ''small town America'' today and renew our commitment to work together on this day and in the future to build quality communities that improve the lives of citizens throughout the nation.

COMMEMORATION OF FLAG DAY

Mr. THURMOND. Madam President, two hundred and twenty-five years ago today, the United States was engaged in its War for Independence. I note that the American Continental Army, now the United States Army, was established by the Continental Congress, just 2 years earlier on June 14, 1775. I express my congratulations to the United States Army on its 227th birthday.

At the start of that War, American colonists fought under a variety of local flags. The Continental Colors, or Grand Union Flag, was the unofficial national flag from 1775–1777. This flag had thirteen alternating red and white stripes, with the English flag in the upper left corner.

Following the publication of the Declaration of Independence, it was no longer appropriate to fly a banner containing the British flag. Accordingly, on June 14, 1777, the Continental Congress passed a resolution that ''the Flag of the United States be 13 stripes alternate red and white, and the Union be 13 stars white in a blue field representing a new constellation.''

No record exists as to why the Continental Congress adopted the now-familiar red, white and blue. A later action by the Congress, convened under the Articles of Confederation, may provide an appropriate interpretation on the use of these colors. Five years after adopting the flag resolution, in 1782, a resolution regarding the Great Seal of the United States contained a statement on the meanings of the colors: Red: For hardiness and courage; White: For purity and innocence; and Blue: For vigilance, perseverance, and justice.

The stripes, symbolic of the 13 original colonies, were similar to the five red and four white stripes on the flag of the Sons of Liberty, an early colonial flag. The stars of the first national flag after 1777 were arranged in a variety of patterns. The most popular design placed the stars in alternating rows of three or two stars. Another flag placed twelve stars in a circle with the thirteenth star in the center. A now popular image of a flag of that day, although it was rarely used at the time, placed the thirteen stars in a circle.

As our country has grown, the Stars and Stripes have undergone necessary modifications. Alterations include the addition, then deletion, of stripes; and the addition and rearrangement of the field of stars.

While our Star-Spangled Banner has seen changes, the message it represents is constant. That message is one of patriotism and respect, wherever the flag is found flying. Henry Ward Beecher, a prominent 19th century clergyman and lecturer stated:

A thoughtful mind, when it sees a nation's flag, sees not the flag only, but the nation itself; and whatever may be its symbols, its insignia, he reads chiefly in the flag the Government, the principles, the truths, and the history which belong to the nation that sets it forth.

Old Glory represents the land, the people, the government and the ideals of the United States, no matter when or where it is displayed throughout the world. The flag has proudly represented our Republic beyond the Earth and into the heavens. The stirring images of Neil Armstrong and Edwin Aldrin saluting the flag on the moon, on July 20, 1969 moved the Nation to new heights of patriotism and national pride.

Today we pause to commemorate our Nation's most clear symbol, our flag. President Woodrow Wilson signed a Presidential Proclamation designating June 14, 1916 as Flag Day. On a prior occasion President Wilson noted:

Things that the flag stands for were created by the experiences of a great people. Everything that it stands for was written by their lives. The flag is the embodiment, not of sentiment, but of history. It represents the experiences made by men and women, the experiences of those who do and live under the flag.

Flag day was officially designated a National observance by a Joint Resolution approved by Congress and the President in 1949, and first celebrated the following year. This year, then, marks the 52nd anniversary of a Congressionally designated Flag Day.

It is appropriate that we pause today, on this Flag Day, to render our respect and honor to the symbol of our Nation, and to review our commitment to the underlying principles it represents. Today, let us reflect on the deeds and sacrifices of those who have gone before and the legacy they left to us. Let us ponder our own endeavors and the inheritance we will leave to future generations. Since the tragic events of last September 11, the display of the flag has taken on a renewed emphasis. It is a visual representation of our commitment to freedom, peace and liberty. Today, the flag is a banner which proudly proclaims, ''United We Stand.''

Finally, as we commemorate the heritage our flag represents, may we as a nation pledge not only our allegiance, but also our efforts to furthering the standards represented by its colors, courage, virtue, perseverance, and justice. Through these universal concepts, We the People can ensure better lives for ourselves and our children, for these are the characteristics of greatness. In doing so, we can move closer to the goal so well stated by Daniel Webster at the laying of the cornerstone of the Bunker Hill Monument on June 17, 1825. On that occasion he said:

Let our object be our country, our whole country, and nothing but our country. And, by the blessing of God, may that country itself become a vast and splendid monument, not of oppression and terror, but of Wisdom, of Peace, and of Liberty, upon which the world may gaze with admiration forever.

I have long supported legislation which imposes penalties on anyone who knowingly mutilates, defaces, burns, tramples upon, or physically defiles any U.S. flag. I have also supported a constitutional amendment to grant Congress and the States the power to prohibit the physical desecration of the U.S. flag. I regret that the Senate has yet to adopt a Resolution for a flag protection Constitutional amendment.

I am pleased that each day the Senate is in session, a designated Senator leads the Senate in reciting the Pledge of Allegiance to the Flag of the United States. This has added greatly to the opening of the Senate each day.

Today I encourage my colleagues and all Americans to take note of the history and meaning of this 14th day of June. We celebrate our Flag, observing its 225th birthday, and the 227-year-old Army which has so proudly and valiantly defended it and our great Nation.

COMMEMORATING THE 227TH BIRTHDAY OF THE UNITED STATES ARMY

Mr. THURMOND. Madam President, I rise today to commemorate the 227th Birthday of the United States Army. On June 14, 1775, as our Republic was struggling to emerge, the Second Continental Congress enacted legislation creating the American Continental Army. The founding fathers knew if the citizens of this Nation were to be secure in their liberty, the Nation would require the ability to defend and protect itself. Fortunately, this Congress also selected George Washington to command this new force. His sense of purpose, integrity, and leadership were an inspiration to the troops he led to secure the independence of the Nation. His vision of the citizen soldier defending his home, family, and country were critical to founding of the Republic.

From humble beginnings, at Lexington and in the forge of battles such as Charleston, Cowpens, and Kings Mountain and from the winter encampment at Valley Forge, the Army secured victory at Yorktown. From Chippewa, New Orleans, Palo Alto, Buena Vista, to the numerous skirmishes on the frontier known as the Indian Wars, the Army proudly defended this Nation. The entry of the United States into World War I with the Army leading the way, sealed the allied victory. During World War II, the Army fought worldwide with troops in the Americas, Europe, Africa, Asia, and the Pacific. The defense of our freedoms continued with the Korean War, the Viet Nam War, and Desert Storm. Today our soldiers are found throughout the world, Bosnia, Kosovo, Afghanistan and elsewhere, courageously defending our Nation and the ideals it represents.

Our Army reflects the values of our Nation's citizens. Our citizen soldiers serve to protect our freedoms today just as they did to gain our freedoms over 200 years ago. I am proud of our soldiers and appreciate their selfless service. I was proud to wear the uniform of the United States Army. Happy Birthday to the United States Army.

Mr. HAGEL. Madam President, I rise today to wish the United States Army happy birthday. It was 227 years ago today, in 1775, that the Continental Army of the United States was formed. The United States Army has had a monumental impact on our country.

Millions of men and women over the past 227 years have served in the senior branch of our military forces. The Army is interwoven into the culture of America. Those who have had the great privilege of serving our country in the U.S. Army understand that.

This year is an especially important anniversary. The United States Military Academy at West Point this year celebrated their bicentennial anniversary. The newly commissioned class of Lieutenants from the West Point Class of 2002 will face a future much like those faced by their predecessors in the Class of 1942, a world where the United States finds itself in a struggle to protect our precious values of liberty, freedom, and democracy.

This struggle will not be easy. As of today, we have soldiers stationed or deployed in 125 nations. Today we are at war with the scourge of our time, terrorism. We must go at the root and strike at the heart of terrorist organizations and those nations granting them safe harbor. And to do so we depend on our United States Army.

This mission is not easy. Our soldiers will spend holidays in far away countries, miss anniversaries with their spouses and birthdays with their children. They do this out of love for our nation and a sense of the greater good. But we must remember that these are the lucky ones. Since military operations started in Afghanistan, the following Army soldiers have given their lives in service to our great nation during Operation Enduring Freedom: Pfc. Kristofer Stonesifer; Spc. John J. Edmunds; Pvt. Giovany Maria; Staff Sgt. Brian ''Cody'' Prosser; Master Sgt. Jefferson Donald Davis; Sgt. 1st Class Daniel Petithory; Sgt. 1st Class Nathan R. Chapman; Spc. Jason A. Disney; Spc. Thomas F. Allison; Staff Sgt. James P. Dorrity; Chief Warrant Officer Jody L. Egnor; Sgt. Jeremy D. Forshee; Staff Sgt. Kerry W. Frith; Major Curtis D. Feisner; Captain Bartt D. Owens; Staff Sgt. Bruce A. Rushforth, Jr.; Sgt. Bradley S. Crose; Spc. Marc A. Anderson; Pfc. Matthew A. Commons; Sgt. Philip J. Svitak; Chief Warrant Officer Stanley L. Harriman; Staff Sgt. Brian T. Craig; Staff Sgt. Justin J. Galewski; Sgt. Jamie O. Maugans; Sgt. 1st Class Daniel A. Romero; Sgt. Gene Vance, Jr.; and Sgt. 1st Class Peter P. Tycz II.

''Duty, honor, country'' is the motto of the U.S. Army. It is America. Every generation of Americans who have served in the U.S. Army, from the Continental Army to today's fighting men and women, have been shaped by this motto. It has molded lives in ways that are hard to explain, just as the Army has touched our national life and history and made the world more secure, prosperous, and a better place for all mankind.

On this 227th birthday of the U.S. Army, as a proud U.S. Army veteran, I say happy birthday to the Army veterans of our country. We recognize and thank those who served and whose examples inspired those of us who have had the opportunity to serve in the U.S. Army.

It is the Army that has laid the foundation for all of this nation's distinguished branches of service and helped build a greater, stronger America.

On this, the 227th birthday of the Army, I say Happy Birthday and, in the

great rich tradition of the U.S. Army, I proclaim my annual Senate floor ''Hooah!''

DOMESTIC VIOLENCE GROUPS SUPPORT CLOSING THE GUN SHOW LOOPHOLE

Mr. LEVIN. Madam President, since 1968 it has been illegal for convicted felons, illegal aliens, individuals involuntarily committed to a mental health facility, individuals who have renounced their citizenship, drug addicts, those dishonorably discharged from the military, and fugitives who possess or purchase a firearm. In 1996, Congress passed legislation to extend the prohibition on firearms to individuals who were under a domestic violence restraining order or convicted of a domestic violence misdemeanor. I supported that legislation because of growing evidence that people who had committed acts of domestic violence were buying guns and using them.

According to the Department of Justice, Office of Justice Programs, 40 percent of women killed with firearms are murdered by an intimate partner. According to a Violence Policy Center analysis, a woman is 14 times more likely to be murdered by a spouse, intimate acquaintance or close relative if there has been a history of domestic violence. And, having one or more guns in the home makes a woman more than seven times more likely to be the victim of homicide.

The threat posed by some domestic abusers was highlighted by a Federal court case, Emerson v. United States. Timothy Joe Emerson was subject to a domestic violence restraining order that required him to stay away from his wife and her young daughter. Because of the restraining order, he was prohibited from possessing a firearm. Emerson was indicted for violating that provision after an incident in which he threatened his wife with a Beretta pistol and pointed it at her child. This is not an isolated case, and we need to prevent these people from possessing and purchasing firearms.

On Wednesday morning my staff met with Kathy Hagenian of the Michigan Coalition Against Domestic and Sexual Violence. Kathy is in Washington this week as part of the National Network to End Domestic Violence Annual Meeting and Legislative Day. The Coalition's mission is to combat all domestic and sexual violence by supporting prevention and intervention programs in communities throughout the State of Michigan. One of the issues she raised was her organization's support of Senator REED's Gun Show Background Check Act. I, too, support this common sense gun safety legislation. This bill would simply apply the background checks that are mandatory for guns purchased in stores to gun shows.

In 1996, the Congress closed the domestic violence loophole. Now it is time to close the gun show loophole. The lack of background checks at gun shows leaves battered women and their children vulnerable to violence. I urge my colleagues to support this important gun safety legislation.

THE MADRID PROTOCOL IMPLEMENTATION ACT

Mr. LEAHY. Madam President, I have come to the floor today to talk about an important piece of legislation, S. 407, the Madrid Protocol Implementation Act, which continues to be blocked from Senate consideration. As I said in an earlier statement on June 7, 2002, there are important bills that have cleared the Democratic side of the aisle and that have bipartisan support, but are being blocked by holds placed by anonymous Republican Senators. Last week, I spoke about legislation concerning national security and law enforcement, including S. 1770, implementing legislation for two anti-terrorism treaties. Fortunately, today, the Senate overwhelmingly passed the Leahy-Hatch substitute amendment to S. 1770 to help ensure that the United States continues to lead the world in the global fight against terrorism. I rise today to speak about protecting the intellectual property of American business.

I introduced S. 407, the Madrid Protocol Implementation Act, with Senator HATCH last year to provide implementing legislation for an important treaty, the Madrid Protocol. This bill promises to help American businesses better protect their intellectual property in the international marketplace.

The Clinton administration transmitted the Madrid Protocol to the Senate for ratification in 2000, but no action was taken while the Senate was under majority control by the Republicans. Under the leadership of Chairman BIDEN, the Senate Foreign Relations Committee, in November, 2001, reported the Madrid Protocol to the Senate with the recommendation that the Senate give its advice and consent to accession to the Madrid Protocol.

S. 407 would implement this new treaty. The legislation would make no substantive change in American trademark law. The bill would set up new procedures for trademark applicants to file a single trademark application with the Patent and Trademark Office. This single filing would give the applicant ''one stop'' international trademark registration—a process only available to signatory countries to the Protocol. This would benefit American businesses and companies who need to protect their trademarks as they sell their goods and services in international markets, including over the Internet.

The House version of this bill, H.R. 741, has already passed the Republican House of Representatives, as it has for the past three Congresses. The Senate Judiciary Committee unanimously reported this bill favorably to the full Senate in July, 2001, and we have been trying unsuccessfully to get it passed by unanimous consent ever since.

This bill is critical in keeping our trademark laws up-to-date. It represents a significant step in our efforts to ensure that American trademark law adequately serves and promotes American interests. It is time for the anonymous, secret Republican holds on S. 407 to be lifted so that the Senate can pass this important legislation to protect the private intellectual property of Americans in the global economy.

LOCAL LAW ENFORCEMENT ACT OF 2001

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

I would like to describe a terrible crime that occurred June 9, 2002 in Riverside, CA. An attack outside a popular gay bar left one gay man dead and another wounded. Jeffery Owens, 40, died of multiple stab wounds while coming to the aid of Michael Bussee, 48, who was being beaten and stabbed in the bar parking lot. Before stabbing Owens, one attacker was heard to yell ''You want some trouble . . . fag, here it is!'' Police are currently looking for the assailants, four men with shaved heads, and are investigating the incident as a hate crime.

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

ADDITIONAL STATEMENTS

TRIBUTE TO RAYMOND D. EVANS

• Mr. BOND. Mr. President, I rise to pay tribute to the staple of the Missouri conservation community, Mr. Raymond D. Evans. Mr. Evans is retiring after 35 years of service with the Missouri Department of Conservation and he is a major contributor to the development of conservation provisions for the State of Missouri. Mr. Evan's fundamental efforts have played a role in developing provisions that helped land owners implement management practices to improve profitability and wildlife values by helping to protect the soil and water resources that are the foundation of agriculture and wildlife productivity. He has maintained the highest standard of excellence in his service to conservation and received several awards from his peers and associates as a result. These awards include the management Award from the Southeast Section of The

Wildlife Society, and Award of Merit from the ASCS for helping write and pass the Farm Bill. Mr. Evans has also received the American Motors Conservation Award for his many contributions to the success of the Missouri Conservation Department's coordinated forest habitat management program, and the E. Sydney Stephens Award for his career contributions to Missouri's wildlife resources. I wish to honor and thank him for his hard work and dedication to the preservation of wildlife and the environment.

To people in Missouri, Mr. Evans has always been known as ''Ray''. His trademark ribbon tie, warm smile and commitment to his neighbors and the land they live on will remain his legacy. On the national scene, Ray has been a tireless advocate of Federal assistance to promote local initiatives. Ray has always understood that conservation is a ''public good'' and, consequently, the public should help landowners provide that public good. As a practicing farmer, Ray also understands and helps our urban friends understand that farmers are the most committed practitioners of conservation because it is good business and because they want to leave more value to their children and future generations. In other words, they want to leave it better than they found it. It is that understanding that won him the trust of landowners which is a key element to the success with which Ray is associated.

Ray's advocacy has been tireless, both for him and those of us he pursued constantly. With Ray, the ''to-do'' list is never complete and every success is followed by a new initiative. Recently, after Ray witnessed President Bush signing the 4th consecutive Farm Bill Ray worked on, Ray innocently succeeded in lifting the President's speech and convincing the President to sign it for him. While Ray was a good enough salesman to pull that off, he couldn't get past the staff who have obligations to the National Archives but if anyone deserves a high-level souvenir for his work in conservation, it would be Ray. Nevertheless, I am pleased that Ray got some face time with the Commander-in-Chief out of the deal.

On behalf of many citizens who benefited from his friendship, work, and guidance, I thank Ray and I thank his wife Carole for lending him to us. While I trust he will continue sharing his presence at many conservation-related events, I am pleased that he and Carole will have more time to enjoy time together. I recommend that he take her for long walks in the countryside so they can both appreciate what they have done for the landscape.●

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 which were referred to the appropriate committees.

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

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. BINGAMAN:

S. 2624. A bill to amend part A of title IV of the Social Security Act to require a comprehensive strategic plan for the State temporary assistance to needy families program; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. MILLER, Mr. KENNEDY, Mr. ROCKEFELLER, Mr. DASCHLE, Mr. CLELAND, Mr. INOUYE, Mr. REID, Ms. MIKULSKI, Mr. JOHNSON, Mr. LEAHY, Mrs. CLINTON, Mr. NELSON of Florida, Mr. SARBANES, Mr. BINGAMAN, Ms. STABENOW, Mr. WELLSTONE, Mr. HOLLINGS, Mrs. MURRAY, Mr. SCHUMER, Mr. AKAKA, Mrs. BOXER, Mr. REED, Mr. DODD, Mr. LEVIN, Mrs. CARNAHAN, Ms. CANTWELL, Mr. DURBIN, and Mr. DAYTON):

S. 2625. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the medicare program; to the Committee on Finance.

By Mr. KENNEDY (for himself, Mr. DEWINE, Mr. HARKIN, Mr. MCCAIN, Mr. DURBIN, Mr. GRAHAM, Mr. WELLSTONE, Ms. COLLINS, Mrs. FEINSTEIN, and Mr. REED):

S. 2626. A bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CLELAND:

S. 2627. A bill to protect marine species off the coast of Georgia; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 839

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 839, a bill to amend title XVIII of the Social Security Act to increase the amount of payment for inpatient hospital services under the medicare program and to freeze the reduction in payments to hospitals for indirect costs of medical education.

S. 1339

At the request of Mr. CAMPBELL, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of S. 1339, a bill to amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

S. 1678

At the request of Mr. MCCAIN, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1678, a bill to amend the Internal Revenue Code of 1986 to provide that a member of the uniformed services or the Foreign Service shall be treated as using a principal residence while away from home on qualified official extended duty in determining the exclusion of gain from the sale of such residence.

S. 1785

At the request of Mr. CLELAND, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1785, a bill to urge the President to establish the White House Commission on National Military Appreciation Month, and for other purposes.

S. 2051

At the request of Mr. REID, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2059

At the request of Ms. MIKULSKI, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2059, a bill to amend the Pubic Health Service Act to provide for Alzheimer's disease research and demonstration grants.

S. 2194

At the request of Mr. MCCONNELL, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 2194, a bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes.

S. RES. 283

At the request of Mr. GRAHAM, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. Res. 283, a resolution recognizing the successful completion of democratic elections in the Republic of Colombia.

AMENDMENT NO. 3838

At the request of Mr. ALLEN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 3838 proposed to S. 2600, a bill to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

At the request of Mr. TORRICELLI, his name was added as a cosponsor of amendment No. 3838 proposed to S. 2600, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM (for himself, Mr. MILLER, Mr. KENNEDY, Mr. ROCKEFELLER, Mr. DASCHLE, Mr. CLELAND, Mr. INOUYE, Mr. REID, Ms. MIKULSKI, Mr. JOHNSON, Mr. LEAHY, Mrs. CLINTON, Mr. NELSON of Florida, Mr. SARBANES, Mr. BINGAMAN, Ms.

STABENOW, Mr. WELLSTONE, Mr. HOLLINGS, Mrs. MURRAY, Mr. SCHUMER, Mr. AKAKA, Mrs. BOXER, Mr. REED, Mr. DODD, Mr. LEVIN, Mrs. CARNAHAN, Ms. CANTWELL, Mr. DURBIN, and Mr. DAYTON):

S. 2625. A bill to amend title XVIII of the Social Security Act to provide coverage of outpatient prescription drugs under the Medicare Program; to the Committee on Finance.

Mr. GRAHAM. Madam President, along with my colleagues, Senators, MILLER and KENNEDY, I am very pleased to announce the introduction of the Medicare Outpatient Prescription Drug Act of 2002.

A prescription drug benefit is the most fundamental shift we can make in the health care of older Americans. Adding a prescription drug benefit to Medicare will represent a 180 degree turn, a change in the focus of how we deliver health care to our Nation's seniors.

Quite simply, including prescription drugs will transform Medicare from a sickness program to a wellness program. Failure to provide a prescription drug benefit will continue to confine millions of elderly Americans to a system that is antiquated, one that only looks backward, not forward.

The sponsors of this legislation do not buy the conventional wisdom that nothing significant can be enacted in an election year. We are committed to meeting our goal this year: passage of a universal, comprehensive, and affordable prescription drug benefit.

To be sure, there are questions in this debate which still remain. But, the most important question, ''will our drug benefit meet seniors' needs?'', can be answered with a resounding ''YES.''

The voluntary benefit we are offering to all seniors is very simple, no gimmicks, gotchas or ''gaps'' to fall into. With our benefit, ''what you see is what you get.'' Seniors will know exactly what they will pay, and exactly what they will get: the monthly premium is $25, no matter where a person lives; all beneficiaries get assistance from the very first prescription of the year.

For the first two years, seniors will pay $10 for each generic prescription, and no more than $40 for all medically-necessary brand-name medicines. All other drugs would cost no more than $60. After two years, the co-pay will be indexed to the increase in prescription drug prices.

Seniors who either pay $4,000 out of their own pocket or have a third party contribute towards this $4,000 spending level would pay no more.

Seniors with very low incomes, below 135 percent of poverty, would pay no premiums. Seniors with incomes between 135 and 150 percent of the poverty level would pay reduced premiums.

And no senior will be faced with a burdensome ''asset test'' that could deny them the very drugs they need.

This kind of certainty, and this kind of help, is what beneficiaries need. Take, for example a 68-year-old man with two conditions very common among the elderly, congestive heart failure and diabetes, and no drug coverage. He would have to spend over $5,100 annually for a typical medication regimen. Under our plan, this gentleman would get the medicines he needs to stay healthy, and would save nearly $3,300.

In addition to being affordable, comprehensive, and universally available to all of America's seniors, we need a drug benefit that will be attractive to beneficiaries. Why? Because voluntary participation of all seniors will ensure that we will have a program that is sustainable for the long run. A program that attracts only the sickest beneficiaries is doomed to fail.

The Congressional Budget Office has evaluated our plan and has stated that it does not leave a single Medicare beneficiary without access to drug coverage.

How does this bill achieve this goal? By following the principle that the drug benefit should track the prescription drug benefits that seniors have been accustomed to in their working years. We have an attractive benefit with an affordable premium and a catastrophic provision that is an insurance policy for all elderly, in particular, for those seniors who are healthy right now, but who may face health problems later in life. We have modeled our bill after what works for most Americans right now. Our benefit includes tiered copayments, and we use as our delivery system the private sector model in place today in every part of the country.

Addition of a prescription drug benefit will be the largest expansion of the Medicare program since it was initiated in 1965. This fact challenges Congress to be sure that we get it right. In light of the scope of the changes we are making, we are suggesting that, after seven years, Congress should examine how well the benefit is working and to make whatever modifications are necessary and appropriate. Not only will we learn about how our delivery system has worked, but we can discover that access to prescription drugs will save Medicare money. How? By doctors prescribing medications instead of performing costly medical procedures. A physician on my staff recently told me that his students had never seen an ulcer operation. Why? Because prescription drugs have ended the need for this surgery.

Improving Medicare by including a prescription drug benefit is a serious and critical undertaking, and deserves our most serious efforts. We all know that our seniors cannot afford to wait out another election cycle.

I am pleased to announce that the American Association of Retired Persons, America Federation of State and County Municipal Employees, the National Council on the Aging, Families USA, the AFL–CIO, the Alliance for Retired Americans, the National Committee to Preserve Social Security and Medicare, and the Generic Pharmaceutical Association support our legislation. I ask unanimous consent that their letters of support be printed in the RECORD. With their help, we can get this done this year.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AARP,
Washington, DC, June 12, 2002.

Hon. BOB GRAHAM and Hon. ZELL MILLER,
U.S. Senate,
Washington, DC.

DEAR SENATORS: We are pleased to restate our position on your revised Medicare prescription drug proposal. Action on a bipartisan prescription drug benefit is a top priority for AARP, our members and the nation.

Medicare beneficiaries have waited long enough for access to meaningful, affordable prescription drug coverage. We know from our membership that in order for a Medicare prescription drug benefit to provide comprehensive coverage it must include:

An affordable premium and coinsurance;

Meaningful catastrophic stop-loss that limits out-of-pocket costs;

A benefit that does not expose beneficiaries to a gap in insurance coverage;

Additional assistance for low-income beneficiaries; and

Quality and safety features to curb unnecessary costs and prevent dangerous drug interactions.

AARP supports your initiative in incorporate these goals. We commend you for including key elements in your proposal that Medicare beneficiaries and our members have indicated they find valuable. For instance, your proposal includes a premium that many Medicare beneficiaries view as affordable and a benefit design that does not include a gap in insurance coverage. Your proposal also now includes co-payments specified as dollar amounts, an approach that our research shows our members prefer to coinsurance. In our view, this plan could provide real value to beneficiaries in protecting them against the high costs of prescription drugs.

It is important that any prescription drug benefit be made a permanent and stable part of Medicare, and we want to work with you to achieve this before enactment.

Thank you for your leadership on this issue. We look forward to working with you and your colleagues as the legislation moves forward. AARP will continue to urge Congress to work in a bipartisan manner to enact affordable, meaningful Medicare prescription drug coverage.

Sincerely,

WILLIAM D. NOVELLI,
Executive Director and CEO.

THE NATIONAL COUNCIL ON THE AGING,
Washington, DC, June 11, 2002.

Hon. BOB GRAHAM,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the National Council on the Aging (NCOA)—the nation's first organization formed to represent America's seniors and those who serve them—I write to commend and thank you for your proposal to provide meaningful Medicare prescription drug coverage to America's seniors. The Medicare Outpatient Prescription Drug Act of 2002 is consistent with the principles supported by the vast majority of

organizations representing Medicare beneficiaries. It provides the foundation for a vehicle that we hope can achieve bipartisan consensus on this issue this year.

NCOA is particularly pleased that your legislation would provide prescription drug coverage that is universal, voluntary, reliable, and continuous. Other proposals being offered include significant coverage gaps and would fail to solve the problem. Under such bills, a significant number of beneficiaries would not want to participate in the program, and many of those who do participate would continue to be forced to choose between buying food and essential medicines.

We commend many of the modifications you have made to your Medicare bill from last year. These improvements include a significantly lower premium, the option to provide a flat copayment, an earlier effective date, and assistance with the very first prescription. We believe these changes will make the coverage affordable and attractive to the vast majority of beneficiaries, which is so critical to making a voluntary prescription drug program work. While we have concerns about the need to reauthorize the program after 2010, we understand the budget trade-offs needed to provide meaningful and attractive coverage, and fully expect that the Congress would reauthorize the program.

NCOA is also pleased that your proposal does not include price controls and that the program would promote stability and efficiency through administration by multiple, competing Pharmacy Benefit Managers (PBMs), using management tools available in the private sector in which PBMs would be at risk of their performance, including effective cost containment.

NCOA deeply appreciates your efforts to move this critical debate in a direction that guarantees access to meaningful coverage—even in rural and frontier areas of the country—and responds in a constructive manner to many of the specific concerns that have been raised regarding other Medicare prescription drug proposals.

It is impossible to have real health security without coverage for prescription drugs. Prescription drug coverage is the number one legislative priority for America's seniors. Virtually every member of Congress has made campaign promises to try to pass a good prescription drug bill. The time has come to get serious and to work together to achieve consensus on the issues in controversy. Your proposal provides us with an excellent starting point.

NCOA looks forward to working on a bipartisan basis with you and other members of Congress to pass legislation this year that provides meaningful, continuous, affordable prescription drug coverage to all Medicare beneficiaries.

Sincerely,

JAMES FIRMAN,
President and CEO.

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC, June 12, 2002.

Sen. BOB GRAHAM,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the millions of members and supporters of the National Committee to Preserve Social Security and Medicare, I write in support of your Medicare prescription drug legislation that will provide much needed relief to seniors. Your bill contains all of the elements that seniors need in a comprehensive drug benefit under Medicare, such as universal, voluntary, affordable, not means tested and most importantly, with a defined benefit, so that seniors can plan accordingly. Prescription drug prices are increasing over 17% per year (faster than inflation) and seniors are spending more on out-of-pocket drug expenditures than ever. The time is now to enact a drug benefit that will provide the Medicare beneficiary with some assistance.

We are pleased that your plan would be available for seniors, no matter where they live. Our members have expressed to us that a prescription drug benefit must be affordable. We believe that a plan such as yours, with no annual deductible and a $4,000 cap on out of pocket expenditures, is reasonable and one that most seniors would be able to afford.

We applaud you for your leadership in this area. Please let me know how we can further support your efforts.

Sincerely,

BARBARA KENNELLY,
President.

FAMILIES USA,
Washington, DC, June 13, 2002.

Sen. BOB GRAHAM,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRAHAM: We congratulate you and Senators Miller, Kennedy and Rockefeller on the introduction of your bill, ''The Medicare Outpatient Prescription Drug Act,'' which provides a prescription drug benefit for Medicare beneficiaries.

This is an issue of utmost importance to all Americans who need prescription drugs, especially to seniors and people with disabilities. As you well know, seniors' ability to afford prescription drugs is a particularly difficult problem today. In our 2001 report entitled, ''Enough to Make You Sick: Prescription Drug Prices for the Elderly,'' we concluded that the 50 top drugs used by seniors rose 2.3 times the rate of inflation between 2000 and 2001. We are in the process of updating this report for last year, and our preliminary data shows that this devastating rate of price increases continues. Millions of seniors have limited income and no, or limited, drug coverage and will find themselves deciding whether to buy drugs or to pay for other essentials.

Your bill addresses many important design issues that we care about in a Medicare prescription drug benefit. The benefit is universal, comprehensive, and is delivered through the Medicare program, ensuring that seniors know it will be available to them when it is needed. Low-income people get extra assistance. Also, there are provisions to assure that costs will be contained and quality maintained.

Please let us know how we can assist you to move this bill toward enactment so that all Medicare beneficiaries can have access to the prescription drugs they need.

Sincerely,

RONALD F. POLLACK,
Executive Director.

AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL–CIO,
Washington, DC, June 12, 2002.

Senators EDWARD KENNEDY, BOB GRAHAM, and ZELL MILLER,
U.S. Senate,
Washington, DC.

DEAR SENATORS: On behalf of the 1.3 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing to express our support for the Medicare prescription drug benefit proposal you unveiled today.

AFSCME has long supported the creation of a Medicare prescription drug benefit that is comprehensive in coverage, affordable and voluntary for all Medicare beneficiaries. We believe that your proposal is a solid step forward in meeting these standards.

In particular, we applaud your proposal's provisions for continuous coverage. We believe that it is one of the most critical components of a meaningful prescription drug benefit. Beneficiaries must have coverage they can count on, with no gaps in coverage. Doing anything less would force our seniors to pay all prescription costs out of their own pocket when they will need the coverage the most.

Since Medicare was started over 35 years ago, many illnesses that were once only treatable in a hospital can now be effectively treated with prescription drugs. Adding a drug benefit to the program is the most urgently needed Medicare reform. We applaud you for not holding the prescription drug benefit hostage to force radical privatization proposals that would cut benefits and increase costs for retirees.

We look forward to working with you and the other sponsors of this important legislation. A Medicare prescription drug benefit is long overdue, and our nation's seniors deserve no less.

Sincerely,

CHARLES M. LOVELESS,
Director of Legislation.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, DC, June 12, 2002.

Hon. BOB GRAHAM,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the 13 million members of the AFL–CIO, I am writing to commend you for your efforts to provide much-needed relief to Medicare beneficiaries. Your proposal to create a voluntary drug benefit within the Medicare program represents an encouraging and solid step toward enacting the one reform most urgently needed for Medicare.

Seniors need a real benefit that provides comprehensive, continuous and certain coverage. The Graham-Miller-Kennedy bill provides that benefit, giving seniors coverage they can count on. A Medicare drug benefit must also be affordable for beneficiaries. The $25 monthly premium and zero deductible in your proposal means seniors need only pay an affordable premium to begin getting coverage immediately. And no senior will have to pay more than $40 for the drugs they need and often will pay less.

In addition, your proposal would not put at risk those retirees who currently have some prescription drug coverage through an employer. Retiree health care is the primary source of prescription drug coverage for seniors, and your proposal rightly provides some relief for employers that choose to continue that coverage.

A proposal widely reported under consideration by House Republican leaders offers only unreliable, expensive and unworkable coverage through private plans, with an enormous gap in coverage that leaves seniors without any coverage at all for drug costs between $2000 and $4500. And the only relief for employers is if they drop the coverage they now offer. Such a proposal will not move us any closer to a real benefit.

As this debate moves forward, we want to work with you and your co-sponsors to enact the best possible Medicare drug benefit. We appreciate your role in advancing that process.

Sincerely,

WILLIAM SAMUEL,
Director of Legislation.

ALLIANCE FOR RETIRED AMERICANS,
Washington, DC, June 12, 2002.

Sen. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: On behalf of the over 2.7 million members of the Alliance for Retired Americans, I want to thank you for your tireless work on behalf of older and disabled Americans to create a Medicare prescription drug benefit program. I also want to express our views on the Medicare prescription drug legislation proposed by you and Senators Graham and Miller. The Alliance supports this proposal as a positive step forward in the effort to create a Medicare prescription drug benefit program.

The Alliance for Retired Americans believes that all older and disabled Americans need an affordable, comprehensive, and voluntary Medicare prescription drug benefit now. Such a benefit program should have low monthly premiums, annual deductibles, and be administered as part of the Medicare program. Your proposed legislation meets these Alliance principles. Unlike other proposals that would begin in 2005, your plan would start in 2004, which gives beneficiaries the coverage they need a full year earlier.

The Alliance will work to enact your legislation. During legislative deliberations, the Alliance will seek to improve benefits because we believe that an 80/20 co-insurance payment system, like the rest of Medicare, will provide the best benefits for older and disabled Americans. The Alliance also supports a $2,000 annual catastrophic cap. We will continue to work to improve any legislation that moves through Congress in order to reach these goals.

Older Americans will spend $1.8 trillion on prescription drugs during the next decade. The inflation rate for prescription drugs will continue at an annual double digit pace as well. Our members and indeed all Americans simply cannot afford these costs. We look forward to working with you and Senators Graham and Miller to enact a comprehensive Medicare prescription drug benefit as soon as possible.

Sincerely yours,

EDWARD F. COYLE,
Executive Director.

GENERIC PHARMACEUTICAL ASSOCIATION,
Washington, DC, June 12, 2002.

Hon. BOB GRAHAM,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the Generic Pharmaceutical Association (GPhA), we would like to commend you and Senators Miller and Kennedy for your leadership introducing legislation to create a Medicare prescription drug benefit for our nation's seniors. We agree with you that the passage and enactment of a voluntary Medicare prescription drug benefit is long overdue. We are strongly supportive of your innovative tiered co-pay structure, as well as the other provisions advocated by you and your colleagues, that are designed to increase the utilization of high-quality, affordable generic medicines.

Generic pharmaceuticals have a proven track record of substantially lowering drug costs. Studies have shown that for every 1 percent increase in generic drug utilization, consumer, business, and health plan purchasers save over $1 billion. The increased use of generics can play an invaluable role in helping Medicare, Medicaid, the Federal Employees Health Benefit Plan (FEHBP) and other Federal and private plans assure that beneficiaries have access to quality, affordable medications. A tiered co-pay system with a significant differential between brand and generic pharmaceuticals will ensure an appropriate incentive is in place for seniors to consider more cost-effective options when making choices about pharmaceutical therapies. We believe an explicit dollar co-pay will also provide seniors with the comfort of knowing they will pay a fixed cost to have their prescriptions filled.

With your leadership, the Graham/Miller/Kennedy bill employs a number of private sector best practices that are now widely used to assure access to cost-effective, quality affordable medications. These provisions not only encourage the appropriate and beneficial use of these products, but provide unbiased and greatly needed educational information to the public about the benefits of these medicines.

The Graham/Miller/Kennedy bill adheres to GPhA's principles for creating a Medicare prescription drug benefit and steers the Medicare reform debate down a prudent public policy path. We look forward to working with you, your cosponsors and with other Members of the House and Senate of both parties to further our common objective of providing our nation's nearly 40 million Medicare beneficiaries and the taxpayers who help support them with the most affordable and highest quality prescription drug benefit possible. If the rest of the Congress and the Administration follow your lead in recognizing the role generics must play in reaching this objective, we are confident we will achieve this goal.

Thank you again for your efforts. If we can be of any assistance to you, please do not hesitate to call.

Sincerely,

KATHLEEN JAEGER,
President and CEO.

Mr. GRAHAM. I want to thank Senators MILLER and KENNEDY for their leadership and commitment to this issue, and urge all of our colleagues to join us in ensuring passage of this critical legislation this year.

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

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

S. 2625

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 ''Medicare Outpatient Prescription Drug Act of 2002''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Medicare outpatient prescription drug benefit program.
''PART D—OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM
''Sec. 1860. Definitions.
''Sec. 1860A. Establishment of outpatient prescription drug benefit program.
''Sec. 1860B. Enrollment under program.
''Sec. 1860C. Enrollment in a plan.
''Sec. 1860D. Providing information to beneficiaries.
''Sec. 1860E. Premiums.
''Sec. 1860F. Outpatient prescription drug benefits.
''Sec. 1860G. Entities eligible to provide outpatient drug benefit.
''Sec. 1860H. Minimum standards for eligible entities.
''Sec. 1860I. Payments.
''Sec. 1860J. Employer incentive program for employment-based retiree drug coverage.
''Sec. 1860K. Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund.
''Sec. 1860L. Medicare Prescription Drug Advisory Committee.''.
Sec. 3. Part D benefits under Medicare+Choice plans.
Sec. 4. Additional assistance for low-income beneficiaries.
Sec. 5. Medigap revisions.
Sec. 6. HHS studies and report on uniform pharmacy benefit cards and systems for transferring prescriptions electronically.
Sec. 7. GAO study and biennial reports on competition and savings.
Sec. 8. Expansion of membership and duties of Medicare Payment Advisory Commission (MedPAC).

SEC. 2. MEDICARE OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM.

(a) ESTABLISHMENT.—Title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) is amended by redesignating part D as part E and by inserting after part C the following new part:

''PART D—OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

''DEFINITIONS

''SEC. 1860. In this part:

''(1) COVERED OUTPATIENT DRUG.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'covered outpatient drug' means any of the following products:

''(i) A drug which may be dispensed only upon prescription, and—

''(I) which is approved for safety and effectiveness as a prescription drug under section 505 of the Federal Food, Drug, and Cosmetic Act;

''(II)(aa) which was commercially used or sold in the United States before the date of enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (bb) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

''(III)(aa) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (bb) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling.

''(ii) A biological product which—

''(I) may only be dispensed upon prescription;

''(II) is licensed under section 351 of the Public Health Service Act; and

''(III) is produced at an establishment licensed under such section to produce such product.

''(iii) Insulin approved under appropriate Federal law, including needles, syringes, and disposable pumps for the administration of such insulin.

''(iv) A prescribed drug or biological product that would meet the requirements of

clause (i) or (ii) except that it is available over-the-counter in addition to being available upon prescription.

''(B) EXCLUSION.—The term 'covered outpatient drug' does not include any product—

''(i) except as provided in subparagraph (A)(iv), which may be distributed to individuals without a prescription;

''(ii) for which payment is available under part A or B or would be available under part B but for the application of a deductible under such part (unless payment for such product is not available because benefits under part A or B have been exhausted), determined, except as provided in subparagraph (C), without regard to whether the beneficiary involved is entitled to benefits under part A or enrolled under part B; or

''(iii) except for agents used to promote smoking cessation and agents used for the treatment of obesity, for which coverage may be excluded or restricted under section 1927(d)(2).

''(C) CLARIFICATION REGARDING IMMUNOSUPPRESSIVE DRUGS.—In the case of a beneficiary who is not eligible for any coverage under part B of drugs described in section 1861(s)(2)(J) because of the requirements under such section (and would not be so eligible if the individual were enrolled under such part), the term 'covered outpatient drug' shall include such drugs if the drugs would otherwise be described in subparagraph (A).

''(2) ELIGIBLE BENEFICIARY.—The term 'eligible beneficiary' means an individual that is entitled to benefits under part A or enrolled under part B.

''(3) ELIGIBLE ENTITY.—The term 'eligible entity' means any entity that the Secretary determines to be appropriate to provide eligible beneficiaries with covered outpatient drugs under a plan under this part, including—

''(A) a pharmacy benefit management company;

''(B) a retail pharmacy delivery system;

''(C) a health plan or insurer;

''(D) a State (through mechanisms established under a State plan under title XIX);

''(E) any other entity approved by the Secretary; or

''(F) any combination of the entities described in subparagraphs (A) through (E) if the Secretary determines that such combination—

''(i) increases the scope or efficiency of the provision of benefits under this part; and

''(ii) is not anticompetitive.

''(4) MEDICARE+CHOICE ORGANIZATION; MEDICARE+CHOICE PLAN.—The terms 'Medicare+Choice organization' and 'Medicare+Choice plan' have the meanings given such terms in subsections (a)(1) and (b)(1), respectively, of section 1859 (relating to definitions relating to Medicare+Choice organizations).

''(5) PRESCRIPTION DRUG ACCOUNT.—The term 'Prescription Drug Account' means the Prescription Drug Account (as established under section 1860K) in the Federal Supplementary Medical Insurance Trust Fund under section 1841.

''ESTABLISHMENT OF OUTPATIENT PRESCRIPTION DRUG BENEFIT PROGRAM

''SEC. 1860A. (a) PROVISION OF BENEFIT.—

''(1) IN GENERAL.—Beginning in 2004, the Secretary shall provide for and administer an outpatient prescription drug benefit program under which each eligible beneficiary enrolled under this part shall be provided with coverage of covered outpatient drugs as follows:

''(A) MEDICARE+CHOICE PLAN.—If the eligible beneficiary is eligible to enroll in a Medicare+Choice plan, the beneficiary—

''(i) may enroll in such a plan; and

''(ii) if so enrolled, shall obtain coverage of covered outpatient drugs through such plan.

''(B) MEDICARE PRESCRIPTION DRUG PLAN.—If the eligible beneficiary is not enrolled in a Medicare+Choice plan, the beneficiary shall obtain coverage of covered outpatient drugs through enrollment in a plan offered by an eligible entity with a contract under this part.

''(2) VOLUNTARY NATURE OF PROGRAM.—Nothing in this part shall be construed as requiring an eligible beneficiary to enroll in the program established under this part.

''(3) SCOPE OF BENEFITS.—The program established under this part shall provide for coverage of all therapeutic classes of covered outpatient drugs.

''(b) ACCESS TO ALTERNATIVE PRESCRIPTION DRUG COVERAGE.—In the case of an eligible beneficiary who has creditable prescription drug coverage (as defined in section 1860B(b)(1)(F)), such beneficiary—

''(1) may continue to receive such coverage and not enroll under this part; and

''(2) pursuant to section 1860B(b)(1)(C), is permitted to subsequently enroll under this part without any penalty and obtain coverage of covered outpatient drugs in the manner described in subsection (a) if the beneficiary involuntarily loses such coverage.

''(c) FINANCING.—The costs of providing benefits under this part shall be payable from the Prescription Drug Account.

''ENROLLMENT UNDER PROGRAM

''SEC. 1860B. (a) ESTABLISHMENT OF PROCESS.—

''(1) PROCESS SIMILAR TO ENROLLMENT UNDER PART B.—The Secretary shall establish a process through which an eligible beneficiary (including an eligible beneficiary enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization) may make an election to enroll under this part. Such process shall be similar to the process for enrollment in part B under section 1837, including the deeming provisions of such section.

''(2) REQUIREMENT OF ENROLLMENT.—An eligible beneficiary must enroll under this part in order to be eligible to receive covered outpatient drugs under this title.

''(b) SPECIAL ENROLLMENT PROCEDURES.—

''(1) LATE ENROLLMENT PENALTY.—

''(A) INCREASE IN PREMIUM.—Subject to the succeeding provisions of this paragraph, in the case of an eligible beneficiary whose coverage period under this part began pursuant to an enrollment after the beneficiary's initial enrollment period under part B (determined pursuant to section 1837(d)) and not pursuant to the open enrollment period described in paragraph (2), the Secretary shall establish procedures for increasing the amount of the monthly part D premium under section 1860E(a) applicable to such beneficiary—

''(i) by an amount that is equal to 10 percent of such premium for each full 12-month period (in the same continuous period of eligibility) in which the eligible beneficiary could have been enrolled under this part but was not so enrolled; or

''(ii) if determined appropriate by the Secretary, by an amount that the Secretary determines is actuarily sound for each such period.

''(B) PERIODS TAKEN INTO ACCOUNT.—For purposes of calculating any 12-month period under subparagraph (A), there shall be taken into account—

''(i) the months which elapsed between the close of the eligible beneficiary's initial enrollment period and the close of the enrollment period in which the beneficiary enrolled; and

''(ii) in the case of an eligible beneficiary who reenrolls under this part, the months which elapsed between the date of termination of a previous coverage period and the close of the enrollment period in which the beneficiary reenrolled.

''(C) PERIODS NOT TAKEN INTO ACCOUNT.—

''(i) IN GENERAL.—For purposes of calculating any 12-month period under subparagraph (A), subject to clause (ii), there shall not be taken into account months for which the eligible beneficiary can demonstrate that the beneficiary had creditable prescription drug coverage (as defined in subparagraph (F)).

''(ii) APPLICATION.—This subparagraph shall only apply with respect to a coverage period the enrollment for which occurs before the end of the 60-day period that begins on the first day of the month which includes—

''(I) in the case of a beneficiary with coverage described in clause (ii) of subparagraph (F), the date on which the plan terminates, ceases to provide, or reduces the value of the prescription drug coverage under such plan to below the actuarial value of the coverage provided under the program under this part; or

''(II) in the case of a beneficiary with coverage described in clause (i), (iii), or (iv) of subparagraph (F), the date on which the beneficiary loses eligibility for such coverage.

''(D) PERIODS TREATED SEPARATELY.—Any increase in an eligible beneficiary's monthly part D premium under subparagraph (A) with respect to a particular continuous period of eligibility shall not be applicable with respect to any other continuous period of eligibility which the beneficiary may have.

''(E) CONTINUOUS PERIOD OF ELIGIBILITY.—

''(i) IN GENERAL.—Subject to clause (ii), for purposes of this paragraph, an eligible beneficiary's 'continuous period of eligibility' is the period that begins with the first day on which the beneficiary is eligible to enroll under section 1836 and ends with the beneficiary's death.

''(ii) SEPARATE PERIOD.—Any period during all of which an eligible beneficiary satisfied paragraph (1) of section 1836 and which terminated in or before the month preceding the month in which the beneficiary attained age 65 shall be a separate 'continuous period of eligibility' with respect to the beneficiary (and each such period which terminates shall be deemed not to have existed for purposes of subsequently applying this paragraph).

''(F) CREDITABLE PRESCRIPTION DRUG COVERAGE DEFINED.—For purposes of this part, the term 'creditable prescription drug coverage' means any of the following:

''(i) MEDICAID PRESCRIPTION DRUG COVERAGE.—Prescription drug coverage under a medicaid plan under title XIX, including through the Program of All-inclusive Care for the Elderly (PACE) under section 1934 and through a social health maintenance organization (referred to in section 4104(c) of the Balanced Budget Act of 1997).

''(ii) PRESCRIPTION DRUG COVERAGE UNDER A GROUP HEALTH PLAN.—Prescription drug coverage under a group health plan, including a health benefits plan under the Federal Employees Health Benefit Program under chapter 89 of title 5, United States Code, and a qualified retiree prescription drug plan (as defined in section 1860J(e)(3)), that provides coverage of the cost of prescription drugs the actuarial value of which (as defined by the Secretary) to the beneficiary equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part.

''(iii) STATE PHARMACEUTICAL ASSISTANCE PROGRAM.—Coverage of prescription drugs under a State pharmaceutical assistance program.

''(iv) VETERANS' COVERAGE OF PRESCRIPTION DRUGS.—Coverage of prescription drugs for veterans, and survivors and dependents of veterans, under chapter 17 of title 38, United States Code.

''(2) OPEN ENROLLMENT PERIOD FOR CURRENT BENEFICIARIES IN WHICH LATE ENROLLMENT PROCEDURES DO NOT APPLY.—

''(A) IN GENERAL.—The Secretary shall establish an applicable period, which shall begin on the date on which the Secretary first begins to accept elections for enrollment under this part, during which any eligible beneficiary may enroll under this part without the application of the late enrollment procedures established under paragraph (1)(A).

''(B) OPEN ENROLLMENT PERIOD TO BEGIN PRIOR TO JANUARY 1, 2004.—The Secretary shall ensure that eligible beneficiaries are permitted to enroll under this part prior to January 1, 2004, in order to ensure that coverage under this part is effective as of such date.

''(3) SPECIAL ENROLLMENT PERIOD FOR BENEFICIARIES WHO INVOLUNTARILY LOSE CREDITABLE PRESCRIPTION DRUG COVERAGE.—The Secretary shall establish a special open enrollment period for an eligible beneficiary that loses creditable prescription drug coverage.

''(c) PERIOD OF COVERAGE.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and subject to paragraph (3), an eligible beneficiary's coverage under the program under this part shall be effective for the period provided in section 1838, as if that section applied to the program under this part.

''(2) OPEN AND SPECIAL ENROLLMENT.—Subject to paragraph (3), an eligible beneficiary who enrolls under the program under this part pursuant to paragraph (2) or (3) of subsection (b) shall be entitled to the benefits under this part beginning on the first day of the month following the month in which such enrollment occurs.

''(3) LIMITATION.—Coverage under this part shall not begin prior to January 1, 2004.

''(d) TERMINATION.—

''(1) IN GENERAL.—The causes of termination specified in section 1838 shall apply to this part in the same manner as such causes apply to part B.

''(2) COVERAGE TERMINATED BY TERMINATION OF COVERAGE UNDER PARTS A AND B.—

''(A) IN GENERAL.—In addition to the causes of termination specified in paragraph (1), the Secretary shall terminate an individual's coverage under this part if the individual is no longer enrolled in either part A or B.

''(B) EFFECTIVE DATE.—The termination described in subparagraph (A) shall be effective on the effective date of termination of coverage under part A or (if later) under part B.

''(3) PROCEDURES REGARDING TERMINATION OF A BENEFICIARY UNDER A PLAN.—The Secretary shall establish procedures for determining the status of an eligible beneficiary's enrollment under this part if the beneficiary's enrollment in a plan offered by an eligible entity under this part is terminated by the entity for cause (pursuant to procedures established by the Secretary under section 1860C(a)(1)).

''ENROLLMENT IN A PLAN

''SEC. 1860C. (a) PROCESS.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Secretary shall establish a process through which an eligible beneficiary who is enrolled under this part but not enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization shall make an annual election to enroll in any plan offered by an eligible entity that has been awarded a contract under this part and serves the geographic area in which the beneficiary resides. Such process shall include for the default enrollment in such a plan in the case of an eligible beneficiary who is enrolled under this part but who has failed to make an election of such a plan.

''(B) RULES.—In establishing the process under subparagraph (A), the Secretary shall—

''(i) use rules similar to the rules for enrollment, disenrollment, and termination of enrollment with a Medicare+Choice plan under section 1851, including—

''(I) the establishment of special election periods under subsection (e)(4) of such section; and

''(II) the application of the guaranteed issue and renewal provisions of subsection (g) of such section (other than paragraph (3)(C)(i), relating to default enrollment); and

''(ii) coordinate enrollments, disenrollments, and terminations of enrollment under part C with enrollments, disenrollments, and terminations of enrollment under this part.

''(2) FIRST ENROLLMENT PERIOD FOR PLAN ENROLLMENT.—The process developed under paragraph (1) shall—

''(A) ensure that eligible beneficiaries who choose to enroll under this part are permitted to enroll with an eligible entity prior to January 1, 2004, in order to ensure that coverage under this part is effective as of such date; and

''(B) be coordinated with the open enrollment period under section 1860B(b)(2)(A).

''(b) MEDICARE+CHOICE ENROLLEES.—

''(1) IN GENERAL.—An eligible beneficiary who is enrolled under this part and enrolled in a Medicare+Choice plan offered by a Medicare+Choice organization shall receive coverage of covered outpatient drugs under this part through such plan.

''(2) RULES.—Enrollment in a Medicare+Choice plan is subject to the rules for enrollment in such a plan under section 1851.

''PROVIDING INFORMATION TO BENEFICIARIES

''SEC. 1860D. (a) ACTIVITIES.—

''(1) IN GENERAL.—The Secretary shall conduct activities that are designed to broadly disseminate information to eligible beneficiaries (and prospective eligible beneficiaries) regarding the coverage provided under this part.

''(2) SPECIAL RULE FOR FIRST ENROLLMENT UNDER THE PROGRAM.—To the extent practicable, the activities described in paragraph (1) shall ensure that eligible beneficiaries are provided with such information at least 30 days prior to the open enrollment period described in section 1860B(b)(2)(A).

''(b) REQUIREMENTS.—

''(1) IN GENERAL.—The activities described in subsection (a) shall—

''(A) be similar to the activities performed by the Secretary under section 1851(d);

''(B) be coordinated with the activities performed by the Secretary under such section and under section 1804; and

''(C) provide for the dissemination of information comparing the plans offered by eligible entities under this part that are available to eligible beneficiaries residing in an area.

''(2) COMPARATIVE INFORMATION.—The comparative information described in paragraph (1)(C) shall include a comparison of the following:

''(A) BENEFITS.—The benefits provided under the plan, including the prices beneficiaries will be charged for covered outpatient drugs, any preferred pharmacy networks used by the eligible entity under the plan, and the formularies and appeals processes under the plan.

''(B) QUALITY AND PERFORMANCE.—To the extent available, the quality and performance of the eligible entity offering the plan.

''(C) BENEFICIARY COST-SHARING.—The cost-sharing required of eligible beneficiaries under the plan.

''(D) CONSUMER SATISFACTION SURVEYS.—To the extent available, the results of consumer satisfaction surveys regarding the plan and the eligible entity offering such plan.

''(E) ADDITIONAL INFORMATION.—Such additional information as the Secretary may prescribe.

''(3) INFORMATION STANDARDS.—The Secretary shall develop standards to ensure that the information provided to eligible beneficiaries under this part is complete, accurate, and uniform.

''(c) USE OF MEDICARE CONSUMER COALITIONS TO PROVIDE INFORMATION.—

''(1) IN GENERAL.—The Secretary may contract with Medicare Consumer Coalitions to conduct the informational activities under—

''(A) this section;

''(B) section 1851(d); and

''(C) section 1804.

''(2) SELECTION OF COALITIONS.—If the Secretary determines the use of Medicare Consumer Coalitions to be appropriate, the Secretary shall—

''(A) develop and disseminate, in such areas as the Secretary determines appropriate, a request for proposals for Medicare Consumer Coalitions to contract with the Secretary in order to conduct any of the informational activities described in paragraph (1); and

''(B) select a proposal of a Medicare Consumer Coalition to conduct the informational activities in each such area, with a preference for broad participation by organizations with experience in providing information to beneficiaries under this title.

''(3) PAYMENT TO MEDICARE CONSUMER COALITIONS.—The Secretary shall make payments to Medicare Consumer Coalitions contracting under this subsection in such amounts and in such manner as the Secretary determines appropriate.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to contract with Medicare Consumer Coalitions under this section.

''(5) MEDICARE CONSUMER COALITION DEFINED.—In this subsection, the term 'Medicare Consumer Coalition' means an entity that is a nonprofit organization operated under the direction of a board of directors that is primarily composed of beneficiaries under this title.

''PREMIUMS

''SEC. 1860E. (a) ANNUAL ESTABLISHMENT OF MONTHLY PART D PREMIUM RATES.—

''(1) IN GENERAL.—The Secretary shall, during September of each year (beginning in 2003), determine and promulgate a monthly part D premium rate for the succeeding year.

''(2) AMOUNT.—The Secretary shall determine the monthly part D premium rate for the succeeding year as follows:

''(A) PREMIUM FOR 2004.—The monthly part D premium rate for 2004 shall be $25.

''(B) INFLATION ADJUSTMENT OF PREMIUM FOR 2005 AND SUBSEQUENT YEARS.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of any calendar year beginning after 2004, the monthly part D premium rate for the year shall be the amount described in subparagraph (A) increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the percentage (if any) by which the amount of the average annual per capita aggregate expenditures payable from the Prescription Drug Account for the year (as estimated under section 1860J(c)(2)(C)) exceeds the amount of such expenditures in 2004.

''(ii) ROUNDING.—If the monthly part D premium rate determined under clause (i) is not a multiple of $1, such rate shall be rounded to the nearest multiple of $1.

''(b) COLLECTION OF PART D PREMIUM.—The monthly part D premium applicable to an eligible beneficiary under this part (after application of any increase under section 1860B(b)(1)) shall be collected and credited to the Prescription Drug Account in the same manner as the monthly premium determined under section 1839 is collected and credited to the Federal Supplementary Medical Insurance Trust Fund under section 1840.

''OUTPATIENT PRESCRIPTION DRUG BENEFITS

''SEC. 1860F. (a) REQUIREMENT.—A plan offered by an eligible entity under this part shall provide eligible beneficiaries enrolled in such plan with—

''(1) coverage of covered outpatient drugs—

''(A) without the application of any deductible; and

''(B) with the cost-sharing described in subsection (b); and

''(2) access to negotiated prices for such drugs under subsection (c).

''(b) COST-SHARING.—

''(1) THREE-TIERED COPAYMENT STRUCTURE FOR DRUGS INCLUDED IN THE FORMULARY.—

''(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, in the case of a covered outpatient drug that is dispensed in a year to an eligible beneficiary and that is included in the formulary established by the eligible entity (pursuant to section 1860H(c)) for the plan, the beneficiary shall be responsible for a copayment for the drug in an amount equal to the following:

''(i) GENERIC DRUGS.—In the case of a generic covered outpatient drug, $10 for each prescription (as defined by the Secretary in consultation with the Medicare Prescription Drug Advisory Committee established under section 1860L) of such drug.

''(ii) PREFERRED BRAND NAME DRUGS.—In the case of a preferred brand name covered outpatient drug (including a drug treated as a preferred brand name drug under subparagraph (C)), $40 for each prescription (as so defined) of such drug.

''(iii) NONPREFERRED BRAND NAME DRUG.—In the case of a nonpreferred brand name covered outpatient drug (that is not treated as a preferred brand name drug under subparagraph (C)), $60 for each prescription (as so defined) of such drug.

''(B) REDUCTION BY ELIGIBLE ENTITY.—An eligible entity offering a plan under this part may reduce the applicable copayment amount that an eligible beneficiary enrolled in the plan is subject to under subparagraph (A) if the Secretary determines that such reduction—

''(i) is tied to the performance requirements described in section 1860I(b)(1)(C); and

''(ii) will not result in an increase in the expenditures made from the Prescription Drug Account.

''(C) TREATMENT OF MEDICALLY NECESSARY NONPREFERRED AND NONFORMULARY DRUGS.—The eligible entity shall treat a nonpreferred brand name drug and a nonformulary drug as a preferred brand name drug under subparagraph (A)(ii) if such nonpreferred or nonformulary drug, as the case may be, is determined (pursuant to subparagraph (D) or (E) of section 1860H(a)(3)) to be medically necessary.

''(2) AUTHORITY FOR INCREASED COST-SHARING FOR NONFORMULARY DRUGS.—Pursuant to section 1860H(c)(3)(A), an eligible entity offering a plan under this part may require cost-sharing for a nonformulary drug that is higher than the copayment amount described in paragraph (1)(A)(iii).

''(3) COST-SHARING MAY NOT EXCEED NEGOTIATED PRICE.—

''(A) IN GENERAL.—If the amount of cost-sharing for a covered outpatient drug that would otherwise be required under this subsection (but for this paragraph) is greater than the applicable amount, then the amount of such cost-sharing shall be reduced to an amount equal to such applicable amount.

''(B) APPLICABLE AMOUNT DEFINED.—For purposes of subparagraph (A), the term 'applicable amount' means an amount equal to—

''(i) in the case of generic drugs and preferred brand name drugs, the negotiated price for the drug (as reported to the Secretary pursuant to section 1860H(a)(5)(A)) less $5; and

''(ii) in the case of nonpreferred brand name drugs and nonformulary drugs, the negotiated price for the drug (as so reported).

''(4) NO COST-SHARING ONCE EXPENSES EQUAL ANNUAL OUT-OF-POCKET LIMIT.—

''(A) IN GENERAL.—An eligible entity offering a plan under this part shall provide coverage of covered outpatient drugs without any cost-sharing if the individual has incurred costs (as described in subparagraph (C)) for covered outpatient drugs in a year equal to the annual out-of-pocket limit specified in subparagraph (B).

''(B) ANNUAL OUT-OF-POCKET LIMIT.—Subject to paragraph (5), for purposes of this part, the 'annual out-of-pocket limit' specified in this subparagraph is equal to $4,000.

''(C) APPLICATION.—In applying subparagraph (A)—

''(i) incurred costs shall only include costs incurred for the cost-sharing described in this subsection; but

''(ii) such costs shall be treated as incurred without regard to whether the individual or another person, including a State program or other third-party coverage, has paid for such costs.

''(5) INFLATION ADJUSTMENT FOR COPAYMENT AMOUNTS AND ANNUAL OUT-OF-POCKET LIMIT.—

''(A) IN GENERAL.—For any year after 2005—

''(i) the copayment amounts described in clauses (i), (ii), and (iii) of paragraph (1)(A) are equal to the copayment amounts determined under such paragraph (or this paragraph) for the previous year increased by the annual percentage increase described in subparagraph (B); and

''(ii) the annual out-of-pocket limit specified in paragraph (4)(B) is equal to the annual out-of-pocket limit determined under such paragraph (or this paragraph) for the previous year increased by the annual percentage increase described in subparagraph (B).

''(B) ANNUAL PERCENTAGE INCREASE.—The annual percentage increase specified in this subparagraph for a year is equal to the annual percentage increase in the prices of covered outpatient drugs (including both price inflation and price changes due to changes in therapeutic mix), as determined by the Secretary for the 12-month period ending in July of the previous year.

''(C) ROUNDING.—If any amount determined under subparagraph (A) is not a multiple of $1, such amount shall be rounded to the nearest multiple of $1.

''(c) ACCESS TO NEGOTIATED PRICES.—Under a plan offered by an eligible entity with a contract under this part, the eligible entity offering such plan shall provide eligible beneficiaries enrolled in such plan with access to negotiated prices (including applicable discounts) used for payment for covered outpatient drugs, regardless of the fact that only partial benefits may be payable under the coverage with respect to such drugs because of the application of the cost-sharing under subsection (b).

''ENTITIES ELIGIBLE TO PROVIDE OUTPATIENT DRUG BENEFIT

''SEC. 1860G. (a) ESTABLISHMENT OF PANELS OF PLANS AVAILABLE IN AN AREA.—

''(1) IN GENERAL.—The Secretary shall establish procedures under which the Secretary—

''(A) accepts bids submitted by eligible entities for the plans which such entities intend to offer in an area established under subsection (b); and

''(B) awards contracts to such entities to provide such plans to eligible beneficiaries in the area.

''(2) COMPETITIVE PROCEDURES.—Competitive procedures (as defined in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))) shall be used to enter into contracts under this part.

''(b) AREA FOR CONTRACTS.—

''(1) REGIONAL BASIS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B) and subject to paragraph (2), the contract entered into between the Secretary and an eligible entity with respect to a plan shall require the eligible entity to provide coverage of covered outpatient drugs under the plan in a region determined by the Secretary under paragraph (2).

''(B) PARTIAL REGIONAL BASIS.—

''(i) IN GENERAL.—If determined appropriate by the Secretary, the Secretary may permit the coverage described in subparagraph (A) to be provided in a partial region determined appropriate by the Secretary.

''(ii) REQUIREMENTS.—If the Secretary permits coverage pursuant to clause (i), the Secretary shall ensure that the partial region in which coverage is provided is—

''(I) at least the size of the commercial service area of the eligible entity for that area; and

''(II) not smaller than a State.

''(2) DETERMINATION.—

''(A) IN GENERAL.—In determining regions for contracts under this part, the Secretary shall—

''(i) take into account the number of eligible beneficiaries in an area in order to encourage participation by eligible entities; and

''(ii) ensure that there are at least 10 different regions in the United States.

''(B) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of coverage areas under this part shall not be subject to administrative or judicial review.

''(c) SUBMISSION OF BIDS.—

''(1) SUBMISSION.—

''(A) IN GENERAL.—Subject to subparagraph (B), each eligible entity desiring to offer a plan under this part in an area shall submit a bid with respect to such plan to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

''(B) BID THAT COVERS MULTIPLE AREAS.—The Secretary shall permit an eligible entity to submit a single bid for multiple areas if the bid is applicable to all such areas.

''(2) REQUIRED INFORMATION.—The bids described in paragraph (1) shall include—

''(A) a proposal for the estimated prices of covered outpatient drugs and the projected annual increases in such prices, including differentials between formulary and nonformulary prices, if applicable;

''(B) a statement regarding the amount that the entity will charge the Secretary for managing, administering, and delivering the benefits under the contract;

''(C) a statement regarding whether the entity will reduce the applicable cost-sharing amount pursuant to section 1860F(b)(1)(B) and if so, the amount of such reduction and how such reduction is tied to the performance requirements described in section 1860I(b)(1)(C);

''(D) a detailed description of the performance requirements for which the payments to the entity will be subject to risk pursuant to section 1860I(b)(1)(C);

''(E) a detailed description of access to pharmacy services provided under the plan, including information regarding—

''(i) whether the entity will use a preferred pharmacy network under the plan; and

''(ii) if a preferred pharmacy network is used, whether the entity will offer access to pharmacies that are outside such network and if such access is provided, rules for accessing such pharmacies;

''(F) with respect to the formulary used by the entity, a detailed description of the procedures and standards the entity will use for—

''(i) adding new drugs to a therapeutic class within the formulary; and

''(ii) determining when and how often the formulary should be modified;

''(G) a detailed description of any ownership or shared financial interests with other entities involved in the delivery of the benefit as proposed under the plan;

''(H) a detailed description of the entity's estimated marketing and advertising expenditures related to enrolling eligible beneficiaries under the plan and retaining such enrollment; and

''(I) such other information that the Secretary determines is necessary in order to carry out this part, including information relating to the bidding process under this part.

''(d) ACCESS TO BENEFITS IN CERTAIN AREAS.—

''(1) AREAS NOT COVERED BY CONTRACTS.—The Secretary shall develop procedures for the provision of covered outpatient drugs under this part to each eligible beneficiary enrolled under this part that resides in an area that is not covered by any contract under this part.

''(2) BENEFICIARIES RESIDING IN DIFFERENT LOCATIONS.—The Secretary shall develop procedures to ensure that each eligible beneficiary enrolled under this part that resides in different areas in a year is provided the benefits under this part throughout the entire year.

''(e) AWARDING OF CONTRACTS.—

''(1) NUMBER OF CONTRACTS.—The Secretary shall, consistent with the requirements of this part and the goal of containing costs under this title, award in a competitive manner at least 2 contracts to offer a plan in an area, unless only 1 bidding entity (and the plan offered by the entity) meets the minimum standards specified under this part and by the Secretary.

''(2) DETERMINATION.—In determining which of the eligible entities that submitted bids that meet the minimum standards specified under this part and by the Secretary to award a contract, the Secretary shall consider the comparative merits of each bid, as determined on the basis of the past performance of the entity and other relevant factors, with respect to—

''(A) how well the entity (and the plan offered by the entity) meet such minimum standards;

''(B) the amount that the entity will charge the Secretary for managing, administering, and delivering the benefits under the contract;

''(C) the performance requirements for which the payments to the entity will be subject to risk pursuant to section 1860I(b)(1)(C);

''(D) the proposed negotiated prices of covered outpatient drugs and annual increases in such prices;

''(E) the factors described in section 1860D(b)(2);

''(F) prior experience of the entity in managing, administering, and delivering a prescription drug benefit program;

''(G) effectiveness of the entity and plan in containing costs through pricing incentives and utilization management; and

''(H) such other factors as the Secretary deems necessary to evaluate the merits of each bid.

''(3) EXCEPTION TO CONFLICT OF INTEREST RULES.—In awarding contracts under this part, the Secretary may waive conflict of interest laws generally applicable to Federal acquisitions (subject to such safeguards as the Secretary may find necessary to impose) in circumstances where the Secretary finds that such waiver—

''(A) is not inconsistent with the—

''(i) purposes of the programs under this title; or

''(ii) best interests of beneficiaries enrolled under this part; and

''(B) permits a sufficient level of competition for such contracts, promotes efficiency of benefits administration, or otherwise serves the objectives of the program under this part.

''(4) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The determination of the Secretary to award or not award a contract to an eligible entity with respect to a plan under this part shall not be subject to administrative or judicial review.

''(f) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The provisions of section 1851(h) shall apply to marketing material and application forms under this part in the same manner as such provisions apply to marketing material and application forms under part C.

''(g) DURATION OF CONTRACTS.—Each contract awarded under this part shall be for a term of at least 2 years but not more than 5 years, as determined by the Secretary.

''MINIMUM STANDARDS FOR ELIGIBLE ENTITIES

''SEC. 1860H. (a) IN GENERAL.—The Secretary shall not award a contract to an eligible entity under this part unless the Secretary finds that the eligible entity agrees to comply with such terms and conditions as the Secretary shall specify, including the following:

''(1) QUALITY AND FINANCIAL STANDARDS.—The eligible entity meets the quality and financial standards specified by the Secretary.

''(2) PROCEDURES TO ENSURE PROPER UTILIZATION, COMPLIANCE, AND AVOIDANCE OF ADVERSE DRUG REACTIONS.—

''(A) IN GENERAL.—The eligible entity has in place drug utilization review procedures to ensure—

''(i) the appropriate utilization by eligible beneficiaries enrolled in the plan covered by the contract of the benefits to be provided under the plan;

''(ii) the avoidance of adverse drug reactions among such beneficiaries, including problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse and misuse; and

''(iii) the reasonable application of peer-reviewed medical literature pertaining to improvements in pharmaceutical safety and appropriate use of drugs.

''(B) AUTHORITY TO USE CERTAIN COMPENDIA AND LITERATURE.—The eligible entity may use the compendia and literature referred to in clauses (i) and (ii), respectively, of section 1927(g)(1)(B) as a source for the utilization review under subparagraph (A).

''(3) PATIENT PROTECTIONS.—

''(A) ACCESS.—

''(i) IN GENERAL.—The eligible entity ensures that the covered outpatient drugs are accessible and convenient to eligible beneficiaries enrolled in the plan covered by the contract, including by offering the services 24 hours a day and 7 days a week for emergencies.

''(ii) AGREEMENTS WITH PHARMACIES.—The eligible entity shall enter into a participation agreement with any pharmacy that meets the requirements of subsection (d) to furnish covered prescription drugs to eligible beneficiaries under this part. Such agreements shall include the payment of a reasonable dispensing fee for covered outpatient drugs dispensed to a beneficiary under the agreement.

''(iii) PREFERRED PHARMACY NETWORKS.—If the eligible entity utilizes a preferred pharmacy network, the network complies with the standards under subsection (e).

''(B) ENSURING THAT BENEFICIARIES ARE NOT OVERCHARGED.—The eligible entity has procedures in place to ensure that each pharmacy with a participation agreement under this part with the entity complies with the requirements under subsection (d)(1)(C) (relating to adherence to negotiated prices).

''(C) CONTINUITY OF CARE.—

''(i) IN GENERAL.—The eligible entity ensures that, in the case of an eligible beneficiary who loses coverage under this part with such entity under circumstances that would permit a special election period (as established by the Secretary under section 1860C(a)(1)), the entity will continue to provide coverage under this part to such beneficiary until the beneficiary enrolls and receives such coverage with another eligible entity under this part or, if eligible, with a Medicare+Choice organization.

''(ii) LIMITED PERIOD.—In no event shall an eligible entity be required to provide the extended coverage required under clause (i) beyond the date which is 30 days after the coverage with such entity would have terminated but for this subparagraph.

''(D) PROCEDURES REGARDING THE DETERMINATION OF DRUGS THAT ARE MEDICALLY NECESSARY.—

''(i) IN GENERAL.—The eligible entity has in place procedures on a case-by-case basis to treat a nonpreferred brand name drug as a preferred brand name drug and a nonformulary drug as a preferred brand name drug under this part if the nonpreferred brand name drug or the nonformulary drug, as the case may be, is determined—

''(I) to be not as effective for the enrollee in preventing or slowing the deterioration of, or improving or maintaining, the health of the enrollee; or

''(II) to have a significant adverse effect on the enrollee.

''(ii) REQUIREMENT.—The procedures under clause (i) shall require that determinations under such clause are based on professional medical judgment, the medical condition of the enrollee, and other medical evidence.

''(E) PROCEDURES REGARDING APPEAL RIGHTS WITH RESPECT TO DENIALS OF CARE.—The eligible entity has in place procedures to ensure—

''(i) a timely internal review for resolution of denials of coverage (in whole or in part and including those regarding the coverage of nonpreferred brand name drugs and nonformulary drugs as preferred brand name drugs) in accordance with the medical exigencies of the case and a timely resolution of complaints, by enrollees in the plan, or by providers, pharmacists, and other individuals acting on behalf of each such enrollee (with the enrollee's consent) in accordance with requirements (as established by the Secretary) that are comparable to such requirements for Medicare+Choice organizations under part C (and are not less favorable to the enrollee than such requirements under

such part as in effect on the date of enactment of the Medicare Outpatient Prescription Drug Act of 2002);

''(ii) that the entity complies in a timely manner with requirements established by the Secretary that (I) provide for an external review by an independent entity selected by the Secretary of denials of coverage described in clause (i) not resolved in the favor of the beneficiary (or other complainant) under the process described in such clause, and (II) are comparable to the external review requirements established for Medicare+Choice organizations under part C (and are not less favorable to the enrollee than such requirements under such part as in effect on the date of enactment of the Medicare Outpatient Prescription Drug Act of 2002); and

''(iii) that enrollees are provided with information regarding the appeals procedures under this part at the time of enrollment with the entity and upon request thereafter.

''(F) PROCEDURES REGARDING PATIENT CONFIDENTIALITY.—Insofar as an eligible entity maintains individually identifiable medical records or other health information regarding eligible beneficiaries enrolled in the plan that is covered by the contract, the entity has in place procedures to—

''(i) safeguard the privacy of any individually identifiable beneficiary information;

''(ii) maintain such records and information in a manner that is accurate and timely;

''(iii) ensure timely access by such beneficiaries to such records and information; and

''(iv) otherwise comply with applicable laws relating to patient confidentiality.

''(G) PROCEDURES REGARDING TRANSFER OF MEDICAL RECORDS.—

''(i) IN GENERAL.—The eligible entity has in place procedures for the timely transfer of records and information described in subparagraph (F) (with respect to a beneficiary who loses coverage under this part with the entity and enrolls with another entity (including a Medicare+Choice organization) under this part) to such other entity.

''(ii) PATIENT CONFIDENTIALITY.—The procedures described in clause (i) shall comply with the patient confidentiality procedures described in subparagraph (F).

''(H) PROCEDURES REGARDING MEDICAL ERRORS.—The eligible entity has in place procedures for—

''(i) working with the Secretary to deter medical errors related to the provision of covered outpatient drugs; and

''(ii) ensuring that pharmacies with a contract with the entity have in place procedures to deter medical errors related to the provision of covered outpatient drugs.

''(4) PROCEDURES TO CONTROL FRAUD, ABUSE, AND WASTE.—The eligible entity has in place procedures to control fraud, abuse, and waste.

''(5) REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—The eligible entity provides the Secretary with reports containing information regarding the following:

''(i) The negotiated prices that the eligible entity is paying for covered outpatient drugs.

''(ii) The prices that eligible beneficiaries enrolled in the plan that is covered by the contract will be charged for covered outpatient drugs.

''(iii) The management costs of providing such benefits.

''(iv) Utilization of such benefits.

''(v) Marketing and advertising expenditures related to enrolling and retaining eligible beneficiaries.

''(B) TIMEFRAME FOR SUBMITTING REPORTS.—

''(i) IN GENERAL.—The eligible entity shall submit a report described in subparagraph (A) to the Secretary within 3 months after the end of each 12-month period in which the eligible entity has a contract under this part. Such report shall contain information concerning the benefits provided during such 12-month period.

''(ii) LAST YEAR OF CONTRACT.—In the case of the last year of a contract under this part, the Secretary may require that a report described in subparagraph (A) be submitted 3 months prior to the end of the contract. Such report shall contain information concerning the benefits provided between the period covered by the most recent report under this subparagraph and the date that a report is submitted under this clause.

''(C) CONFIDENTIALITY OF INFORMATION.—

''(i) IN GENERAL.—Notwithstanding any other provision of law and subject to clause (ii), information disclosed by an eligible entity pursuant to subparagraph (A) (except for information described in clause (ii) of such subparagraph) is confidential and shall only be used by the Secretary for the purposes of, and to the extent necessary, to carry out this part.

''(ii) UTILIZATION DATA.—Subject to patient confidentiality laws, the Secretary shall make information disclosed by an eligible entity pursuant to subparagraph (A)(iv) (regarding utilization data) available for research purposes. The Secretary may charge a reasonable fee for making such information available.

''(6) APPROVAL OF MARKETING MATERIAL AND APPLICATION FORMS.—The eligible entity complies with the requirements described in section 1860G(f).

''(7) RECORDS AND AUDITS.—The eligible entity maintains adequate records related to the administration of the benefits under this part and affords the Secretary access to such records for auditing purposes.

''(b) SPECIAL RULES REGARDING COST-EFFECTIVE PROVISION OF BENEFITS.—In providing the benefits under a contract under this part, an eligible entity shall—

''(1) employ mechanisms to provide the benefits economically, such as through the use of—

''(A) alternative methods of distribution;

''(B) preferred pharmacy networks (pursuant to subsection (e)); and

''(C) generic drug substitution;

''(2) use mechanisms to encourage eligible beneficiaries to select cost-effective drugs or less costly means of receiving drugs, such as through the use of—

''(A) pharmacy incentive programs;

''(B) therapeutic interchange programs; and

''(C) disease management programs;

''(3) encourage pharmacy providers to—

''(A) inform beneficiaries of the differentials in price between generic and brand name drug equivalents; and

''(B) provide medication therapy management programs in order to enhance beneficiaries' understanding of the appropriate use of medications and to reduce the risk of potential adverse events associated with medications; and

''(4) develop and implement a formulary in accordance with subsection (c).

''(c) REQUIREMENTS FOR FORMULARIES.—

''(1) IN GENERAL.—The formulary developed and implemented by the eligible entity shall comply with standards established by the Secretary in consultation with the Medicare Prescription Drug Advisory Committee established under section 1860L.

''(2) REQUIREMENTS FOR STANDARDS.—The standards established under paragraph (1) shall require that the eligible entity—

''(A) use a pharmacy and therapeutic committee (that meets the standards for a pharmacy and therapeutic committee established by the Secretary in consultation with such Medicare Prescription Drug Advisory Committee) to develop and implement the formulary;

''(B) assign all brand name drugs included in the formulary to either the preferred category or nonpreferred category of drugs;

''(C) include—

''(i) all generic covered outpatient drugs in the formulary;

''(ii) at least 1 brand name covered outpatient drug from each therapeutic class (as defined by the Secretary in consultation with such Medicare Prescription Drug Advisory Committee) as a preferred brand name drug in the formulary; and

''(iii) if there is more than 1 brand name covered outpatient drug available in a therapeutic class, at least 1 such drug as a preferred brand name drug in the formulary and at least 1 such drug as a nonpreferred brand name drug in the formulary;

''(D) develop procedures for the modification of the formulary, including for the addition of new drugs to an existing therapeutic class;

''(E) pursuant to section 1860F(b)(1)(C), provide for coverage of nonpreferred brand name drugs and nonformulary drugs at the preferred rate when determined under subparagraph (D) or (E) of subsection (a)(3) to be medically necessary;

''(F) disclose to current and prospective beneficiaries and to providers in the service area the nature of the formulary restrictions, including information regarding the drugs included in the formulary and any difference in the cost-sharing for—

''(i) drugs included in the formulary; and

''(ii) for drugs not included in the formulary; and

''(G) provide a reasonable amount of notice to beneficiaries enrolled in the plan that is covered by the contract under this part of any change in the formulary.

''(3) CONSTRUCTION.—Nothing in this part shall be construed as precluding an eligible entity from—

''(A) except as provided in section 1860F(b)(1)(C) (relating to the coverage of medically necessary drugs at the preferred rate), requiring cost-sharing for nonformulary drugs that is higher than the copayment amount established in section 1860F(b)(1)(A)(iii);

''(B) educating prescribing providers, pharmacists, and beneficiaries about the medical and cost benefits of drugs included in the formulary (including generic drugs); or

''(C) requesting prescribing providers to consider a drug included in the formulary prior to dispensing of a drug not so included or a preferred brand name drug prior to dispensing of a nonpreferred brand name drug, as long as such a request does not unduly delay the provision of the drug.

''(d) TERMS OF PARTICIPATION AGREEMENT WITH PHARMACIES.—

''(1) IN GENERAL.—A participation agreement between an eligible entity and a pharmacy under this part (pursuant to subsection (a)(3)(A)(ii)) shall include the following terms and conditions:

''(A) APPLICABLE REQUIREMENTS.—The pharmacy shall meet (and throughout the contract period continue to meet) all applicable Federal requirements and State and local licensing requirements.

''(B) ACCESS AND QUALITY STANDARDS.—The pharmacy shall comply with such standards as the Secretary (and the eligible entity) shall establish concerning the quality of, and enrolled beneficiaries' access to, pharmacy services under this part. Such standards shall require the pharmacy—

''(i) not to refuse to dispense covered outpatient drugs to any eligible beneficiary enrolled under this part;

''(ii) to keep patient records (including records on expenses) for all covered outpatient drugs dispensed to such enrolled beneficiaries;

''(iii) to submit information (in a manner specified by the Secretary to be necessary to administer this part) on all purchases of such drugs dispensed to such enrolled beneficiaries; and

''(iv) to comply with periodic audits to assure compliance with the requirements of this part and the accuracy of information submitted.

''(C) ENSURING THAT BENEFICIARIES ARE NOT OVERCHARGED.—

''(i) ADHERENCE TO NEGOTIATED PRICES.—The total charge for each covered outpatient drug dispensed by the pharmacy to a beneficiary enrolled in the plan, without regard to whether the individual is financially responsible for any or all of such charge, shall not exceed the negotiated price for the drug (as reported to the Secretary pursuant to subsection (a)(5)(A)).

''(ii) ADHERENCE TO BENEFICIARY OBLIGATION.—The pharmacy may not charge (or collect from) such beneficiary an amount that exceed's the cost-sharing that the beneficiary is responsible for under this part (as determined under section 1860F(b) using the negotiated price of the drug).

''(D) ADDITIONAL REQUIREMENTS.—The pharmacy shall meet such additional contract requirements as the eligible entity specifies under this section.

''(2) APPLICABILITY OF FRAUD AND ABUSE PROVISIONS.—The provisions of section 1128 through 1128C (relating to fraud and abuse) apply to pharmacies participating in the program under this part.

''(e) PREFERRED PHARMACY NETWORKS.—

''(1) IN GENERAL.—If an eligible entity uses a preferred pharmacy network to deliver benefits under this part, such network shall meet minimum access standards established by the Secretary.

''(2) STANDARDS.—In establishing standards under paragraph (1), the Secretary shall take into account reasonable distances to pharmacy services in both urban and rural areas.

''PAYMENTS

''SEC. 1860I. (a) PROCEDURES FOR PAYMENTS TO ELIGIBLE ENTITIES.—The Secretary shall establish procedures for making payments to each eligible entity with a contract under this part for the management, administration, and delivery of the benefits under this part.

''(b) REQUIREMENTS FOR PROCEDURES.—

''(1) IN GENERAL.—The procedures established under subsection (a) shall provide for the following:

''(A) MANAGEMENT PAYMENT.—Payment for the management, administration, and delivery of the benefits under this part.

''(B) REIMBURSEMENT FOR NEGOTIATED COSTS OF DRUGS PROVIDED.—Payments for the negotiated costs of covered outpatient drugs provided to eligible beneficiaries enrolled under this part and in a plan offered by the eligible entity, reduced by any applicable cost-sharing under section 1860F(b).

''(C) RISK REQUIREMENT TO ENSURE PURSUIT OF PERFORMANCE REQUIREMENTS.—An adjustment of a percentage (as determined under paragraph (2)) of the payments made to an entity under subparagraph (A) to ensure that the entity, in managing, administering, and delivering the benefits under this part, pursues performance requirements established by the Secretary, including the following:

''(i) CONTROL OF MEDICARE AND BENEFICIARY COSTS.—The entity contains costs to the Prescription Drug Account and to eligible beneficiaries enrolled under this part and in the plan offered by the entity, as measured by generic substitution rates, price discounts, and other factors determined appropriate by the Secretary that do not reduce the access of such beneficiaries to medically necessary covered outpatient drugs.

''(ii) QUALITY CLINICAL CARE.—The entity provides such beneficiaries with quality clinical care, as measured by such factors as—

''(I) the level of adverse drug reactions and medical errors among such beneficiaries; and

''(II) providing specific clinical suggestions to improve health and patient and prescriber education as appropriate.

''(iii) QUALITY SERVICE.—The entity provides such beneficiaries with quality services, as measured by such factors as sustained pharmacy network access, timeliness and accuracy of service delivery in claims processing and card production, pharmacy and member service support access, response time in mail delivery service, and timely action with regard to appeals and current beneficiary service surveys.

''(2) PERCENTAGE OF PAYMENT TIED TO RISK.—

''(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall determine the percentage (which may be up to 100 percent) of the payments made to an entity under subparagraph (A) that will be tied to the performance requirements described in paragraph (1)(C).

''(B) LIMITATION ON RISK TO ENSURE PROGRAM STABILITY.—In order to provide for program stability, the Secretary may not establish a percentage to be adjusted under this subsection at a level that jeopardizes the ability of an eligible entity to administer and deliver the benefits under this part or administer and deliver such benefits in a quality manner.

''(3) RISK ADJUSTMENT OF PAYMENTS BASED ON ENROLLEES IN PLAN.—To the extent that an eligible entity is at risk under this subsection, the procedures established under subsection (a) may include a methodology for risk adjusting the payments made to such entity based on the differences in actuarial risk of different enrollees being served if the Secretary determines such adjustments to be necessary and appropriate.

''(4) PASS-THROUGH OF REBATES AND PRICE CONCESSIONS OBTAINED BY THE ELIGIBLE ENTITY.—The Secretary, if determined by the Secretary to be in the best interests of the medicare program or eligible beneficiaries, may establish procedures for reducing the amount of payments to an eligible entity under subsection (a) to take into account any rebates or price concessions obtained by the entity from manufacturers of covered outpatient drugs.

''(c) PAYMENTS TO MEDICARE+CHOICE ORGANIZATIONS.—For provisions related to payments to Medicare+Choice organizations for the administration and delivery of benefits under this part to eligible beneficiaries enrolled in a Medicare+Choice plan offered by the organization, see section 1853(c)(8).

''(d) SECONDARY PAYER PROVISIONS.—The provisions of section 1862(b) shall apply to the benefits provided under this part.

''EMPLOYER INCENTIVE PROGRAM FOR EMPLOYMENT-BASED RETIREE DRUG COVERAGE

''SEC. 1860J. (a) PROGRAM AUTHORITY.—The Secretary is authorized to develop and implement a program under this section to be known as the 'Employer Incentive Program' that encourages employers and other sponsors of employment-based health care coverage to provide adequate prescription drug benefits to retired individuals by subsidizing, in part, the sponsor's cost of providing coverage under qualifying plans.

''(b) SPONSOR REQUIREMENTS.—In order to be eligible to receive an incentive payment under this section with respect to coverage of an individual under a qualified retiree prescription drug plan (as defined in subsection (e)(3)), a sponsor shall meet the following requirements:

''(1) ASSURANCES.—The sponsor shall—

''(A) annually attest, and provide such assurances as the Secretary may require, that the coverage offered by the sponsor is a qualified retiree prescription drug plan, and will remain such a plan for the duration of the sponsor's participation in the program under this section; and

''(B) guarantee that it will give notice to the Secretary and covered retirees—

''(i) at least 120 days before terminating its plan; and

''(ii) immediately upon determining that the actuarial value of the prescription drug benefit under the plan falls below the actuarial value of the outpatient prescription drug benefit under this part.

''(2) BENEFICIARY INFORMATION.—The sponsor shall report to the Secretary, for each calendar quarter for which it seeks an incentive payment under this section, the names and social security numbers of all retirees (and their spouses and dependents) covered under such plan during such quarter and the dates (if less than the full quarter) during which each such individual was covered.

''(3) AUDITS.—The sponsor and the employment-based retiree health coverage plan seeking incentive payments under this section shall agree to maintain, and to afford the Secretary access to, such records as the Secretary may require for purposes of audits and other oversight activities necessary to ensure the adequacy of prescription drug coverage, the accuracy of incentive payments made, and such other matters as may be appropriate.

''(4) OTHER REQUIREMENTS.—The sponsor shall provide such other information, and comply with such other requirements, as the Secretary may find necessary to administer the program under this section.

''(c) INCENTIVE PAYMENTS.—

''(1) IN GENERAL.—A sponsor that meets the requirements of subsection (b) with respect to a quarter in a calendar year shall be entitled to have payment made by the Secretary on a quarterly basis (to the sponsor or, at the sponsor's direction, to the appropriate employment-based health plan) of an incentive payment, in the amount determined in paragraph (2), for each retired individual (or spouse or dependent) who—

''(A) was covered under the sponsor's qualified retiree prescription drug plan during such quarter; and

''(B) was eligible for, but was not enrolled in, the outpatient prescription drug benefit program under this part.

''(2) AMOUNT OF PAYMENT.—

''(A) IN GENERAL.—The amount of the payment for a quarter shall be, for each individual described in paragraph (1), ⅔ of the sum of the monthly Government contribution amounts (computed under subparagraph (B)) for each of the 3 months in the quarter.

''(B) COMPUTATION OF MONTHLY GOVERNMENT CONTRIBUTION AMOUNT.—For purposes of subparagraph (A), the monthly Government contribution amount for a month in a year is equal to the amount by which—

''(i) 1/12 of the amount estimated under subparagraph (C) for the year involved; exceeds

''(ii) the monthly Part D premium under section 1860E(a) (determined without regard to any increase under section 1860B(b)(1)) for the month involved.

''(C) ESTIMATE OF AVERAGE ANNUAL PER CAPITA AGGREGATE EXPENDITURES.—

''(i) IN GENERAL.—The Secretary shall for each year after 2003 estimate for that year

an amount equal to average annual per capita aggregate expenditures payable from the Prescription Drug Account for that year.

''(ii) TIMEFRAME FOR ESTIMATION.—The Secretary shall make the estimate described in clause (i) for a year before the beginning of that year.

''(3) PAYMENT DATE.—The payment under this section with respect to a calendar quarter shall be payable as of the end of the next succeeding calendar quarter.

''(d) CIVIL MONEY PENALTIES.—A sponsor, health plan, or other entity that the Secretary determines has, directly or through its agent, provided information in connection with a request for an incentive payment under this section that the entity knew or should have known to be false shall be subject to a civil monetary penalty in an amount up to 3 times the total incentive amounts under subsection (c) that were paid (or would have been payable) on the basis of such information.

''(e) DEFINITIONS.—In this section:

''(1) EMPLOYMENT-BASED RETIREE HEALTH COVERAGE.—The term 'employment-based retiree health coverage' means health insurance or other coverage, whether provided by voluntary insurance coverage or pursuant to statutory or contractual obligation, of health care costs for retired individuals (or for such individuals and their spouses and dependents) based on their status as former employees or labor union members.

''(2) EMPLOYER.—The term 'employer' has the meaning given the term in section 3(5) of the Employee Retirement Income Security Act of 1974 (except that such term shall include only employers of 2 or more employees).

''(3) QUALIFIED RETIREE PRESCRIPTION DRUG PLAN.—The term 'qualified retiree prescription drug plan' means health insurance coverage included in employment-based retiree health coverage that—

''(A) provides coverage of the cost of prescription drugs with an actuarial value (as defined by the Secretary) to each retired beneficiary that equals or exceeds the actuarial value of the benefits provided to an individual enrolled in the outpatient prescription drug benefit program under this part; and

''(B) does not deny, limit, or condition the coverage or provision of prescription drug benefits for retired individuals based on age or any health status-related factor described in section 2702(a)(1) of the Public Health Service Act.

''(4) SPONSOR.—The term 'sponsor' has the meaning given the term 'plan sponsor' in section 3(16)(B) of the Employer Retirement Income Security Act of 1974.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the program under this section.

''PRESCRIPTION DRUG ACCOUNT IN THE FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND

''SEC. 1860K. (a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is created within the Federal Supplementary Medical Insurance Trust Fund established by section 1841 an account to be known as the 'Prescription Drug Account' (in this section referred to as the 'Account').

''(2) FUNDS.—The Account shall consist of such gifts and bequests as may be made as provided in section 201(i)(1), and such amounts as may be deposited in, or appropriated to, the account as provided in this part.

''(3) SEPARATE FROM REST OF TRUST FUND.—Funds provided under this part to the Account shall be kept separate from all other funds within the Federal Supplementary Medical Insurance Trust Fund.

''(b) PAYMENTS FROM ACCOUNT.—

''(1) IN GENERAL.—The Managing Trustee shall pay from time to time from the Account such amounts as the Secretary certifies are necessary to make payments to operate the program under this part, including payments to eligible entities under section 1860I, payments to Medicare+Choice organizations under section 1853(c)(8), and payments with respect to administrative expenses under this part in accordance with section 201(g).

''(2) TREATMENT IN RELATION TO PART B PREMIUM.—Amounts payable from the Account shall not be taken into account in computing actuarial rates or premium amounts under section 1839.

''(c) APPROPRIATIONS TO COVER BENEFITS AND ADMINISTRATIVE COSTS.—

''(1) IN GENERAL.—Subject to paragraph (2), there are appropriated to the Account in a fiscal year, out of any moneys in the Treasury not otherwise appropriated, an amount equal to the amount by which the benefits and administrative costs of providing the benefits under this part in the year exceed the premiums collected under section 1860E(b) for the year.

''(2) LIMITATION.—No amounts shall be appropriated, and no amounts expended, for expenses incurred for providing coverage of covered outpatient drugs after January 1, 2011. The Secretary may make payments on or after such date for expenses incurred to the extent such expenses were incurred for providing coverage of covered outpatient drugs prior to such date.

''MEDICARE PRESCRIPTION DRUG ADVISORY COMMITTEE

''SEC. 1860L. (a) ESTABLISHMENT OF COMMITTEE.—There is established a Medicare Prescription Drug Advisory Committee (in this section referred to as the 'Committee').

''(b) FUNCTIONS OF COMMITTEE.—On and after March 1, 2003, the Committee shall advise the Secretary on policies related to—

''(1) the development of guidelines for the implementation and administration of the outpatient prescription drug benefit program under this part; and

''(2) the development of—

''(A) standards for a pharmacy and therapeutics committee required of eligible entities under section 1860H(c)(2)(A);

''(B) standards required under subparagraphs (D) and (E) of section 1860H(a)(3) for determining if a drug is medically necessary;

''(C) standards for—

''(i) establishing therapeutic classes;

''(ii) adding new therapeutic classes to a formulary; and

''(iii) defining a prescription of covered outpatient drugs for purposes of applying cost-sharing under section 1860F(b);

''(D) procedures to evaluate the bids submitted by eligible entities under this part; and

''(E) procedures to ensure that eligible entities with a contract under this part are in compliance with the requirements under this part.

''(c) STRUCTURE AND MEMBERSHIP OF THE COMMITTEE.—

''(1) STRUCTURE.—The Committee shall be composed of 19 members who shall be appointed by the Secretary.

''(2) MEMBERSHIP.—

''(A) IN GENERAL.—The members of the Committee shall be chosen on the basis of their integrity, impartiality, and good judgment, and shall be individuals who are, by reason of their education, experience, attainments, and understanding of pharmaceutical cost control and quality enhancement, exceptionally qualified to perform the duties of members of the Committee.

''(B) SPECIFIC MEMBERS.—Of the members appointed under paragraph (1)—

''(i) five shall be chosen to represent physicians, 2 of whom shall be geriatricians;

''(ii) two shall be chosen to represent nurse practitioners;

''(iii) four shall be chosen to represent pharmacists;

''(iv) one shall be chosen to represent the Centers for Medicare & Medicaid Services;

''(v) four shall be chosen to represent actuaries, pharmacoeconomists, researchers, and other appropriate experts;

''(vi) one shall be chosen to represent emerging drug technologies;

''(vii) one shall be closed to represent the Food and Drug Administration; and

''(viii) one shall be chosen to represent individuals enrolled under this part.

''(d) TERMS OF APPOINTMENT.—Each member of the Committee shall serve for a term determined appropriate by the Secretary. The terms of service of the members initially appointed shall begin on January 1, 2003.

''(e) CHAIRPERSON.—The Secretary shall designate a member of the Committee as Chairperson. The term as Chairperson shall be for a 1-year period.

''(f) COMMITTEE PERSONNEL MATTERS.—

''(1) MEMBERS.—

''(A) COMPENSATION.—Each member of the Committee who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Committee. All members of the Committee who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

''(B) TRAVEL EXPENSES.—The members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Committee.

''(2) STAFF.—The Committee may appoint such personnel as the Committee considers appropriate.

''(g) OPERATION OF THE COMMITTEE.—

''(1) MEETINGS.—The Committee shall meet at the call of the Chairperson (after consultation with the other members of the Committee) not less often than quarterly to consider a specific agenda of issues, as determined by the Chairperson after such consultation.

''(2) QUORUM.—Ten members of the Committee shall constitute a quorum for purposes of conducting business.

''(h) FEDERAL ADVISORY COMMITTEE ACT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Committee.

''(i) TRANSFER OF PERSONNEL, RESOURCES, AND ASSETS.—For purposes of carrying out its duties, the Secretary and the Committee may provide for the transfer to the Committee of such civil service personnel in the employ of the Department of Health and Human Services (including the Centers for Medicare & Medicaid Services), and such resources and assets of the Department used in carrying out this title, as the Committee requires.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such

sums as may be necessary to carry out the purposes of this section.''.

(b) EXCLUSIONS FROM COVERAGE.—

(1) APPLICATION TO PART D.—Section 1862(a) of the Social Security Act (42 U.S.C. 1395y(a)) is amended in the matter preceding paragraph (1) by striking ''part A or part B'' and inserting ''part A, B, or D''.

(2) PRESCRIPTION DRUGS NOT EXCLUDED FROM COVERAGE IF REASONABLE AND NECESSARY.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)) is amended—

(A) in subparagraph (H), by striking ''and'' at the end;

(B) in subparagraph (I), by striking the semicolon at the end and inserting '', and''; and

(C) by adding at the end the following new subparagraph:

''(J) in the case of prescription drugs covered under part D, which are not reasonable and necessary to prevent or slow the deterioration of, or improve or maintain, the health of eligible beneficiaries;''.

(c) CONFORMING AMENDMENTS TO FEDERAL SUPPLEMENTARY MEDICAL INSURANCE TRUST FUND.—Section 1841 of the Social Security Act (42 U.S.C. 1395t) is amended—

(1) in the last sentence of subsection (a)—

(A) by striking ''and'' before ''such amounts''; and

(B) by inserting before the period the following: '', and such amounts as may be deposited in, or appropriated to, the Prescription Drug Account established by section 1860K'';

(2) in subsection (g), by inserting after ''by this part,'' the following: ''the payments provided for under part D (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund),'';

(3) in subsection (h), by inserting after ''1840(d)'' the following: ''and section 1860E(b) (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund)''; and

(4) in subsection (i), by inserting after ''section 1840(b)(1)'' the following: '', section 1860E(b) (in which case the payments shall be made from the Prescription Drug Account in the Trust Fund),''.

(d) CONFORMING REFERENCES TO PREVIOUS PART D.—

(1) IN GENERAL.—Any reference in law (in effect before the date of enactment of this Act) to part D of title XVIII of the Social Security Act is deemed a reference to part E of such title (as in effect after such date).

(2) SECRETARIAL SUBMISSION OF LEGISLATIVE PROPOSAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a legislative proposal providing for such technical and conforming amendments in the law as are required by the provisions of this Act.

SEC. 3. PART D BENEFITS UNDER MEDICARE+CHOICE PLANS.

(a) ELIGIBILITY, ELECTION, AND ENROLLMENT.—Section 1851 of the Social Security Act (42 U.S.C. 1395w–21) is amended—

(1) in subsection (a)(1)(A), by striking ''parts A and B'' and inserting ''parts A, B, and D''; and

(2) in subsection (i)(1), by striking ''parts A and B'' and inserting ''parts A, B, and D''.

(b) VOLUNTARY BENEFICIARY ENROLLMENT FOR DRUG COVERAGE.—Section 1852(a)(1)(A) of the Social Security Act (42 U.S.C. 1395w–22(a)(1)(A)) is amended by inserting ''(and under part D to individuals also enrolled under that part)'' after ''parts A and B''.

(c) ACCESS TO SERVICES.—Section 1852(d)(1) of the Social Security Act (42 U.S.C. 1395w–22(d)(1)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(F) in the case of covered outpatient drugs (as defined in section 1860(1)) provided to individuals enrolled under part D, the organization complies with the access requirements applicable under part D.''.

(d) PAYMENTS TO ORGANIZATIONS FOR PART D BENEFITS.—

(1) IN GENERAL.—Section 1853(a)(1)(A) of the Social Security Act (42 U.S.C. 1395w–23(a)(1)(A)) is amended—

(A) by inserting ''determined separately for the benefits under parts A and B and under part D (for individuals enrolled under that part)'' after ''as calculated under subsection (c)'';

(B) by striking ''that area, adjusted for such risk factors'' and inserting ''that area. In the case of payment for the benefits under parts A and B, such payment shall be adjusted for such risk factors as''; and

(C) by inserting before the last sentence the following: ''In the case of the payments under subsection (c)(8) for the provision of coverage of covered outpatient drugs to individuals enrolled under part D, such payment shall be adjusted for the risk factors of each enrollee as the Secretary determines to be feasible and appropriate to ensure actuarial equivalence.''.

(2) AMOUNT.—Section 1853(c) of the Social Security Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), in the matter preceding subparagraph (A), by inserting ''for benefits under parts A and B'' after ''capitation rate''; and

(B) by adding at the end the following new paragraph:

''(8) CAPITATION RATE FOR PART D BENEFITS.—

''(A) IN GENERAL.—In the case of a Medicare+Choice plan that provides coverage of covered outpatient drugs to an individual enrolled under part D, the capitation rate for such coverage shall be the amount described in subparagraph (B). Such payments shall be made in the same manner and at the same time as the payments to the Medicare+Choice organization offering the plan for benefits under parts A and B are otherwise made, but such payments shall be payable from the Prescription Drug Account in the Federal Supplementary Medical Insurance Trust Fund under section 1841.

''(B) AMOUNT.—The amount described in this paragraph is an amount equal to 1/12 of the average annual per capita aggregate expenditures payable from the Prescription Drug Account for the year (as estimated under section 1860J(c)(2)(C)).''.

(e) LIMITATION ON ENROLLEE LIABILITY.—Section 1854(e) of the Social Security Act (42 U.S.C. 1395w–24(e)) is amended by adding at the end the following new paragraph:

''(5) SPECIAL RULE FOR PART D BENEFITS.—With respect to outpatient prescription drug benefits under part D, a Medicare+Choice organization may not require that an enrollee pay any deductible or pay a cost-sharing amount that exceeds the amount of cost-sharing applicable for such benefits for an eligible beneficiary under part D.''.

(f) REQUIREMENT FOR ADDITIONAL BENEFITS.—Section 1854(f)(1) of the Social Security Act (42 U.S.C. 1395w–24(f)(1)) is amended by adding at the end the following new sentence: ''Such determination shall be made separately for the benefits under parts A and B and for prescription drug benefits under part D.''.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services provided under a Medicare+Choice plan on or after January 1, 2004.

SEC. 4. ADDITIONAL ASSISTANCE FOR LOW-INCOME BENEFICIARIES.

(a) INCLUSION IN MEDICARE COST-SHARING.—Section 1905(p)(3) of the Social Security Act (42 U.S.C. 1396d(p)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (i), by striking ''and'' at the end;

(B) in clause (ii), by inserting ''and'' at the end; and

(C) by adding at the end the following new clause:

''(iii) premiums under section 1860E(a).''; and

(2) in subparagraph (B), by inserting ''and cost-sharing described in section 1860F(b)'' after ''section 1813''.

(b) EXPANSION OF MEDICAL ASSISTANCE.—Section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) is amended—

(1) in clause (iii)—

(A) by striking ''section 1905(p)(3)(A)(ii)'' and inserting ''clauses (ii) and (iii) of section 1905(p)(3)(A) and for medicare cost-sharing described in section 1905(p)(3)(B) (but only insofar as it relates to benefits provided under part D of title XVIII),''; and

(B) by striking ''and'' at the end;

(2) by redesignating clause (iv) as clause (vi); and

(3) by inserting after clause (iii) the following new clauses:

''(iv) for making medical assistance available for medicare cost-sharing described in section 1905(p)(3)(A)(iii) and for medicare cost-sharing described in section 1905(p)(3)(B) (but only insofar as it relates to benefits provided under part D of title XVIII) for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds 120 percent but does not exceed 135 percent of such official poverty line for a family of the size involved;

''(v) for making medical assistance available for medicare cost-sharing described in section 1905(p)(3)(A)(iii) on a linear sliding scale based on the income of such individuals for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds 135 percent but does not exceed 150 percent of such official poverty line for a family of the size involved; and''.

(c) NONAPPLICABILITY OF RESOURCE REQUIREMENTS TO MEDICARE PART D COST-SHARING.—Section 1905(p)(1) of the Social Security Act (42 U.S.C. 1396d(p)(1)) is amended by adding at the end the following flush sentence:

''In determining if an individual is a qualified medicare beneficiary under this paragraph, subparagraph (C) shall not be applied for purposes of providing the individual with medicare cost-sharing described in section 1905(p)(3)(A)(iii) or for medicare cost-sharing described in section 1905(p)(3)(B) (but only insofar as it relates to benefits provided under part D of title XVIII).''.

(d) NONAPPLICABILITY OF PAYMENT DIFFERENTIAL REQUIREMENTS TO MEDICARE PART D COST-SHARING.—Section 1902(n)(2) of the Social Security Act (42 U.S.C. 1396a(n)(2)) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to the cost-sharing described in section 1860F(b).''.

(e) 100 PERCENT FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by striking ''and'' before ''(4)''; and

(2) by inserting before the period at the end the following: '', and (5) the Federal medical assistance percentage shall be 100 percent

with respect to medical assistance provided under clauses (iv) and (v) of section 1902(a)(10)(E)''.

(f) TREATMENT OF TERRITORIES.—Section 1108(g) of the Social Security Act (42 U.S.C. 1308(g)) is amended by adding at the end the following new paragraph:

''(3) Notwithstanding the preceding provisions of this subsection, with respect to fiscal year 2004 and any fiscal year thereafter, the amount otherwise determined under this subsection (and subsection (f)) for the fiscal year for a Commonwealth or territory shall be increased by the ratio (as estimated by the Secretary) of—

''(A) the aggregate amount of payments made to the 50 States and the District of Columbia for the fiscal year under title XIX that are attributable to making medical assistance available for individuals described in clauses (i), (iii), (iv), and (v) of section 1902(a)(10)(E) for payment of medicare cost-sharing described in section 1905(p)(3)(A)(iii) and for medicare cost-sharing described in section 1905(p)(3)(B) (but only insofar as it relates to benefits provided under part D of title XVIII); to

''(B) the aggregate amount of total payments made to such States and District for the fiscal year under such title.''.

(g) CONFORMING AMENDMENTS.—Section 1933 of the Social Security Act (42 U.S.C. 1396u–3) is amended—

(1) in subsection (a), by striking ''section 1902(a)(10)(E)(iv)'' and inserting ''section 1902(a)(10)(E)(vi)'';

(2) in subsection (c)(2)(A)—

(A) in clause (i), by striking ''section 1902(a)(10)(E)(iv)(I)'' and inserting ''section 1902(a)(10)(E)(vi)(I)''; and

(B) in clause (ii), by striking ''section 1902(a)(10)(E)(iv)(II)'' and inserting ''section 1902(a)(10)(E)(vi)(II)'';

(3) in subsection (d), by striking ''section 1902(a)(10)(E)(iv)'' and inserting ''section 1902(a)(10)(E)(vi)''; and

(4) in subsection (e), by striking ''section 1902(a)(10)(E)(iv)'' and inserting ''section 1902(a)(10)(E)(vi)''.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply for medical assistance provided under section 1902(a)(10)(E) of the Social Security Act (42 U.S.C. 1396a(a)(10)(E)) on and after January 1, 2004.

SEC. 5. MEDIGAP REVISIONS.

Section 1882 of the Social Security Act (42 U.S.C. 1395ss) is amended by adding at the end the following new subsection:

''(v) MODERNIZED BENEFIT PACKAGES FOR MEDICARE SUPPLEMENTAL POLICIES.—

''(1) REVISION OF BENEFIT PACKAGES.—

''(A) IN GENERAL.—Notwithstanding subsection (p), the benefit packages classified as 'H', 'I', and 'J' under the standards established by subsection (p)(2) (including the benefit package classified as 'J' with a high deductible feature, as described in subsection (p)(11)) shall be revised so that—

''(i) the coverage of outpatient prescription drugs available under such benefit packages is replaced with coverage of outpatient prescription drugs that complements but does not duplicate the coverage of outpatient prescription drugs that is otherwise available under this title;

''(ii) the revised benefit packages provide a range of coverage options for outpatient prescription drugs for beneficiaries, but do not provide coverage for more than 90 percent of the cost-sharing amount applicable to an individual under section 1860F(b);

''(iii) uniform language and definitions are used with respect to such revised benefits;

''(iv) uniform format is used in the policy with respect to such revised benefits;

''(v) such revised standards meet any additional requirements imposed by the amendments made by the Medicare Outpatient Prescription Drug Act of 2002; and

''(vi) except as revised under the preceding clauses or as provided under subsection (p)(1)(E), the benefit packages are identical to the benefit packages that were available on the date of enactment of the Medicare Outpatient Prescription Drug Act of 2002.

''(B) MANNER OF REVISION.—The benefit packages revised under this section shall be revised in the manner described in subparagraph (E) of subsection (p)(1), except that for purposes of subparagraph (C) of such subsection, the standards established under this subsection shall take effect not later than January 1, 2004.

''(2) CONSTRUCTION OF BENEFITS IN OTHER MEDICARE SUPPLEMENTAL POLICIES.—Nothing in the benefit packages classified as 'A' through 'G' under the standards established by subsection (p)(2) (including the benefit package classified as 'F' with a high deductible feature, as described in subsection (p)(11)) shall be construed as providing coverage for benefits for which payment may be made under part D.

''(3) GUARANTEED ISSUANCE AND RENEWAL OF REVISED POLICIES.—The provisions of subsections (q) and (s), including provisions of subsection (s)(3) (relating to special enrollment periods in cases of termination or disenrollment), shall apply to medicare supplemental policies revised under this subsection in the same manner as such provisions apply to medicare supplemental policies issued under the standards established under subsection (p).

''(4) OPPORTUNITY OF CURRENT POLICYHOLDERS TO PURCHASE REVISED POLICIES.—

''(A) IN GENERAL.—No medicare supplemental policy of an issuer with a benefit package that is revised under paragraph (1) shall be deemed to meet the standards in subsection (c) unless the issuer—

''(i) provides written notice during the 60-day period immediately preceding the period established for the open enrollment period established under section 1860B(b)(2)(A), to each individual who is a policyholder or certificate holder of a medicare supplemental policy issued by that issuer (at the most recent available address of that individual) of the offer described in clause (ii) and of the fact that such individual will no longer be covered under such policy as of January 1, 2004; and

''(ii) offers the policyholder or certificate holder under the terms described in subparagraph (B), during at least the period established under section 1860B(b)(2)(A), a medicare supplemental policy with the benefit package that the Secretary determines is most comparable to the policy in which the individual is enrolled with coverage effective as of the date on which the individual is first entitled to benefits under part D.

''(B) TERMS OF OFFER DESCRIBED.—The terms described in this subparagraph are terms which do not—

''(i) deny or condition the issuance or effectiveness of a medicare supplemental policy described in subparagraph (A)(ii) that is offered and is available for issuance to new enrollees by such issuer;

''(ii) discriminate in the pricing of such policy because of health status, claims experience, receipt of health care, or medical condition; or

''(iii) impose an exclusion of benefits based on a preexisting condition under such policy.

''(5) ELIMINATION OF OBSOLETE POLICIES WITH NO GRANDFATHERING.—No person may sell, issue, or renew a medicare supplemental policy with a benefit package that is classified as 'H', 'I', or 'J' (or with a benefit package classified as 'J' with a high deductible feature) that has not been revised under this subsection on or after January 1, 2004.

''(6) PENALTIES.—Each penalty under this section shall apply with respect to policies revised under this subsection as if such policies were issued under the standards established under subsection (p), including the penalties under subsections (a), (d), (p)(8), (p)(9), (q)(5), (r)(6)(A), (s)(4), and (t)(2)(D).''.

SEC. 6. HHS STUDIES AND REPORT ON UNIFORM PHARMACY BENEFIT CARDS AND SYSTEMS FOR TRANSFERRING PRESCRIPTIONS ELECTRONICALLY.

(a) STUDIES.—The Secretary of Health and Human Services shall conduct a study to determine the feasibility and advisability of—

(1) establishing a uniform format for pharmacy benefit cards provided to beneficiaries by eligible entities under the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 2); and

(2) developing systems to electronically transfer prescriptions under such program from the prescriber to the pharmacist.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a report on the results of the studies conducted under subsection (a) together with any recommendations for legislation that the Secretary determines to be appropriate as a result of such studies.

SEC. 7. GAO STUDY AND BIENNIAL REPORTS ON COMPETITION AND SAVINGS.

(a) ONGOING STUDY.—The Comptroller General of the United States shall conduct an ongoing study and analysis of the outpatient prescription drug benefit program under part D of title XVIII of the Social Security Act (as added by section 2), including an analysis of—

(1) the extent to which the competitive bidding process under such program fosters maximum competition and efficiency; and

(2) the savings to the medicare program resulting from such outpatient prescription drug benefit program, including the reduction in the number or length of hospital visits.

(b) INITIAL REPORT ON COMPETITIVE BIDDING PROCESS.—Not later than 9 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report on the results of the portion of the study conducted pursuant to subsection (a)(1).

(c) BIENNIAL REPORTS.—Not later than January 1, 2005, and biennially thereafter, the Comptroller General of the United States shall submit to Congress a report on the results of the study conducted under subsection (a) together with such recommendations for legislation and administrative action as the Comptroller General determines appropriate.

SEC. 8. EXPANSION OF MEMBERSHIP AND DUTIES OF MEDICARE PAYMENT ADVISORY COMMISSION (MEDPAC).

(a) EXPANSION OF MEMBERSHIP.—

(1) IN GENERAL.—Section 1805(c) of the Social Security Act (42 U.S.C. 1395b–6(c)) is amended—

(A) in paragraph (1), by striking ''17'' and inserting ''19''; and

(B) in paragraph (2)(B), by inserting ''experts in the area of pharmacology and prescription drug benefit programs,'' after ''other health professionals,''.

(2) INITIAL TERMS OF ADDITIONAL MEMBERS.—

(A) IN GENERAL.—For purposes of staggering the initial terms of members of the Medicare Payment Advisory Commission under section 1805(c)(3) of the Social Security Act (42 U.S.C. 1395b–6(c)(3)), the initial terms of the 2 additional members of the Commission provided for by the amendment under paragraph (1)(A) are as follows:

(i) One member shall be appointed for 1 year.

(ii) One member shall be appointed for 2 years.

(B) COMMENCEMENT OF TERMS.—Such terms shall begin on January 1, 2003.

(b) EXPANSION OF DUTIES.—Section 1805(b)(2) of the Social Security Act (42 U.S.C. 1395b–6(b)(2)) is amended by adding at the end the following new subparagraph:

''(D) PRESCRIPTION MEDICINE BENEFIT PROGRAM.—Specifically, the Commission shall review, with respect to the outpatient prescription drug benefit program under part D, the impact of such program on—

''(i) the pharmaceutical market, including costs and pricing of pharmaceuticals, beneficiary access to such pharmaceuticals, and trends in research and development;

''(ii) franchise, independent, and rural pharmacies; and

''(iii) beneficiary access to outpatient prescription drugs, including an assessment of out-of-pocket spending, generic and brand name drug utilization, and pharmacists' services.''.

Mr. MILLER. Madam President, I am proud to tell America's seniors who have been waiting in line for a long time that, finally, they have reached the front of the line. Their time has come. This Senate is ready to take action on prescription drugs.

Our action cannot come soon enough. Most of our elderly in this country are not wealthy. Many live on fixed incomes. They are the ones who are hurt first and hurt most by rising health care costs.

Our elderly have been waiting a long time. Waiting for Congress to do something. Waiting for Congress to help them with the skyrocketing costs of their prescription drugs.

Our bill provides an affordable prescription drug benefit under Medicare for all seniors for the first time. Coverage begins with the first prescription filled because there is no deductible.

For the roughly 12 million seniors in this country who earn less than $11,900 a year, there is no premium and no copayment. For our neediest seniors, our bill gives them their medicine for free.

For those who earn more, our plan has an affordable a $25 monthly premium and a copayment of $10 for generic drugs and $40 for brand-name drugs. Also, our bill has no gap in coverage and an out-of-pocket maximum of $4,000 a year.

We realize it is a huge, complex and complicated undertaking. And that is why this bill provides that in 2011, we will come back and re-evaluate this program, just like we do with other complicated legislation.

We believe that is the wise and judicious thing to do. In fact, if the original Medicare program had required such a reauthorization, we probably would have had a prescription drug benefit added to it long ago.

But since Medicare was permanently authorized from the beginning, there was no requirement for Congress to re-evaluate and therefore modernize the program as circumstances changed over the years.

And, reauthorization is not anything new or different. We re-evaluate many programs on a regular basis: We just did it with the Farm Bill. Welfare Reform, the Elementary and Secondary Education program, Head Start, all of them are re-evaluated at regular intervals.

I hope that all members of the Senate will come together and pass this bill in the next few weeks so that our elderly across this land of plenty, those folks who have played by the rules and worked hard, can have some hope and some dignity in the last few years they are on this earth.

Mr. KENNEDY. Madam President, Medicare is a solemn promise between government and its citizens and between the generations. It says, ''Contribute to the system during your working years and we will assure you health security in your retirement years.'' But that promise is broken every day, because Medicare does not cover prescription drugs. The Graham-Miller-Kennedy Medicare Prescription Drug Act of 2002 sends the message loud and clear: it is time to mend Medicare's broken promise.

There is no domestic issue that is more important to the American people than assuring that senior citizens can afford the prescription drugs they need. Senior citizens have an average income of $15,000, and they spend an average of $2,000 of that limited income on prescription drugs. Too many of our elderly citizens must choose between food on the table and the medicine their doctors prescribe. Too many of the elderly are taking half the drugs their doctor prescribes, or none at all, because they simply can't afford them.

Every day we delay, the problem becomes worse. Prescription drugs costs are escalating at double-digit rates. One-third of all senior citizens don't have a dime of prescription drug coverage, and those who do have coverage are in danger of losing it. The sad fact is that the only senior citizens who have reliable, affordable, adequate coverage are the very poor on Medicaid. That is not good enough, and we are here today to say that America owes it to its senior citizens to do better.

Every politician understands that senior citizens, and their children, and their grandchildren want action. Every politician understands that opposition to a prescription drug benefit is not a sustainable position. The question is not whether Congress will pass a bill; the question is whether we will pass a bill that truly provides the protection senior citizens need. The elderly do not need a prescription drug benefit that cannot pass the truth in advertising test. They don't need a benefit that pays pennies on the dollar for the medicines the elderly need to survive. They do not need a benefit that offers the pretence of relief but not the performance.

The bill we are offering today mends the broken promise of Medicare. It offers real benefits at a price the elderly can afford. It is a lifeline for every senior citizen who needs prescription drugs. It is a priority for the American people.

It is time to pass a Medicare prescription drug benefit. It is time for Congress to listen to the American people instead of the powerful special interests.

By Mr. CLELAND:

S. 2627. A bill to protect marine species off the coast of Georgia; to the Committee on Commerce, Science, and Transportation.

Mr. CLELAND. Madam President, I rise today to introduce legislation to help protect marine species in the exclusive economic zone off the coast of Georgia. Shark gillnetting causes bycatch of many marine species, including valuable gamefish such as tarpon, red drum, king mackerel, and cobia and leatherback sea turtles, a protected species. Gillnets are already prohibited in Georgia's State waters, and my legislation would also prohibit this gear from being used in the Federal waters off the coast of Georgia. This legislation is supported by the Georgia Department of Natural Resources, which has jurisdiction over the State's coastal resources.

My proposal does not prohibit shark fishing but rather affects the means of fishing. Shark fishers can use other methods for fishing such as long-lines or hook and line as alternatives. Additionally, this bill only affects the waters off the coast of Georgia. The neighboring States are still allowed to handle the bycatch, enforcement, and other issues as they believe is appropriate.

The waters affected by the legislation are home to many types of marine life that are vitally important to Georgia's traditional and expanding charter fishery, as well as the state's coastal communities and tourism industry. These businesses are negatively impacted by the shark gillnetting bycatch rates and its impacts on gamefish populations, including some already overfished stocks. In August 2000, I was contacted by some of these Georgia business people who are concerned over what they see as a dramatic decrease in the fish population and about the future viability of their businesses. These citizens work to create a delicate balance between the environment and their livelihood by limiting their catches and releasing fish to help insure the sustained health of local fish stocks and their habitats. Shark gillnetting has disrupted this balance. My legislation is the first step to bringing this balance back in line.

As the Commerce Committee, of which I am a member, begins the reauthorization of the Magnuson-Stevens Fishery Conservation Management Act, I will work with Chairman HOLLINGS to address this issue. It is at once an environmental issue, a small business issue, a state sovereignty issue, and it is the right thing to do.

By Mr. KENNEDY (for himself, Mr. DEWINE, Mr. HARKIN, Mr. MCCAIN, Mr. DURBIN, Mr.

GRAHAM, Mr. WELLSTONE, Ms. COLLINS, Mrs. FEINSTEIN, and Mr. REED):

S. 2626. A bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products; to the Committee on Health, Education, Labor, and Pensions.

Mr. DEWINE. Madam President, today Senator KENNEDY, my colleague from Massachusetts, and I, Senator DURBIN, and others are introducing a bill designed to help protect children from the dangers of tobacco. Quite simply, our bill would finally give the Food and Drug Administration the authority it needs to effectively regulate both the manufacture and the sale of tobacco products.

My colleagues will all remember that we visited this issue a few years ago, in 1998, when our colleague from Arizona, Senator MCCAIN, and others introduced the Universal Tobacco Settlement Act, which included a major section that provided the FDA with the authority to regulate tobacco products. Also, of course, during 1998, 46 States entered into an agreement known as the Master Settlement Agreement, MSA. They entered into that agreement with the major tobacco companies to settle all State lawsuits seeking to recover the Medicaid costs of treating smokers.

Fast forward from 1998 until today. Tobacco proponents would have you believe this master settlement resolved the issue of tobacco use by imposing all these restrictions. But the truth is, it did not. Smoking among young people remains a huge national problem.

Every day in this country, nearly 5,000 young people under the age of 18 try their first cigarette. In my own home State of Ohio, 33 percent—one-third—of children 18 and under smoke. These kids in Ohio, by themselves, go through 45 million packs of cigarettes each year.

If that is not bad enough, look at it another way: 90 percent of smokers start smoking before the age of 19. More than 6.4 million children across this country will die prematurely because of a decision they will make as children, as adolescents—a decision to start smoking cigarettes.

In my home State of Ohio, as I indicated, one-third of the children smoke. We know the statistics are that one-third of people who smoke in this country will die prematurely because of an alcohol-related illness. One-third of the one-third, therefore, in the State of Ohio will die prematurely.

While States have limited options available for tobacco advertising under this 1998 Master Settlement Agreement, the reality is that the tobacco companies still are able to choose the contents of their advertisements. They are still able to get around this settlement. They are still able to run ads like this: ''Skol, A Pinch Better.'' Guess where that ad ran? In Sports Illustrated.

How many young people in this country every week wait for that Sports Illustrated to come in the mail, or buy it when it comes to the store?

The companies are savvy. They have really changed their marketing strategies. They have concentrated more money into different advertising markets. As a result, more than 3 years after the major tobacco companies agreed to stop marketing to children as part of this tobacco settlement, children are still twice as likely as adults to be exposed to tobacco advertising.

Let me repeat that. Children are still twice as likely as adults to be exposed to tobacco advertising.

This chart shows and represents a poll which was done. The question asked was: Have you seen any advertising for cigarettes or tobacco in the last 2 weeks? Among teens, 64 percent said yes; adults, only 27 percent.

In spite of the claim that tobacco companies are not targeting children, for whatever reason that is the market that is hearing it; that is who is seeing the message; that is who is hearing the message; that is whom the message is affecting.

According to the Federal Trade Commission's annual report on cigarette sales and advertising, the year 2000 represented the largest increase ever in tobacco companies' spending on ''promotional allowances''; that is, the money tobacco companies pay retailers to promote their products in prominent locations in stores, or for high visible shelf space. We know that is one of the greatest marketing techniques—put it somewhere I can see it when I walk in the store. It is right at eye level for kids near the cash register, in an aisle where the customer must walk by to pay the cashier.

That same year—the year 2000—cigarette manufacturers spent a record $9.5 billion on advertising and promotion. That is an increase of 16 percent from the year 1999.

Tobacco companies also spend billions of dollars advertising through enticing promotional items—lighters, hats, and other products—they give away for free at the ''point of sale,'' or, in other words, at the cash register or the place of checkout in the grocery store or the convenience store.

In fact, spending on such promotional or value-added items increased by 37 percent between 1999 and the year 2000.

Let us not fool ourselves. These promotional strategies and advertisements reach our children. Statistics show that 75 percent of our children visit a convenience store at least once a week.

I ask my colleagues. The next time you walk into a convenience store, look at how many different times you see an advertisement for tobacco products. They are everywhere. You walk in the store, and it may be on the clock—a little promotional clock that says when the store is open and when the store is closed. They will be at eye level. They will be by the cashier when you check out. They will be everywhere—image after image after image. It is calculated, and it works. Convenience stores are a place—right or wrong—where kids go. Seventy-five percent of kids visit convenience stores, as I said, at least once a week. That is a target area.

This isn't just about advertising and marketing schemes. It is also about to be manufacturers' failure to disclose the specific ingredients in their products.

I realize full well that tobacco users and nonusers alike recognize and understand that tobacco products are hazardous to their health. Everybody knows that. That is not what I am talking about. I am talking about requiring the tobacco companies to list the ingredients in their products. They do not have to do that today. Tobacco is an unregulated product. I believe it makes common sense that tobacco companies should be required to list when they put arsenic—and they do—or put formaldehyde or ammonia in the cigarettes. They should have to at least list it. It just makes common sense. Yet the law today does not require them to do that.

While simply listing the ingredients, toxic as they may be, might not seem like much, think about it this way. Current law makes sure that we know what is in products designed to help people quit smoking—products such as the patch or the Nicorette gum, which are regulated, but not the very product that gets people addicted in the first place, the cigarettes. Doesn't that seem absurd?

Think about it this way: Right now, the Food and Drug Administration requires Philip Morris to print the ingredients in its Kraft Macaroni and Cheese. They have to print all of the ingredients. Pick up a box. Every single ingredient that is in there they have to print but not the ingredients in cigarettes, a product, by the way, that contributes to the deaths of more than 440,000 people a year.

Right now the FDA requires Philip Morris, which owns Nabisco, to print the ingredients contained in Oreo cookies and Ritz crackers but not the ingredients in Camel or Winston cigarettes, even though cigarettes cause one-third of all cancer deaths and 90 percent of lung cancer deaths. It is unfathomable to me—and I think it is unfathomable to everybody—that we would require the listing of ingredients on these products. We even require the listing of the ingredients on bottled water. Yet we do not require the listing of ingredients for one of the leading causes of death and disease in this country.

Right now, the FDA requires printed ingredients for chewing gum, lipstick, bottled water, and ice cream, but not for cigarettes—a product that causes 20 percent of all heart disease deaths, 90 percent of lung cancer, which is the leading cause of cancer deaths among women, and the leading cause of preventable death in the United States.

Another way to look at it is if a company wants to market a food product

as ''fat-free'' or ''reduced-fat'' or ''lite,'' that company is required to meet certain standards regarding the number of calories or the amount of fat grams in that product. You can look right on that package and find it. Yet cigarette companies can call a cigarette a ''Camel Light'' or a ''Marlboro Light'' and not reveal a thing about the amount of tar or nicotine or arsenic in that supposedly ''light'' cigarette.

Not having access to all of the information about this deadly product just makes no sense. It is something we need to change. With the bill we are introducing, we can change it.

It is time we finally give the FDA the authority it needs to fix these problems. The legislation that Senator KENNEDY and Senator DURBIN and I are introducing will do just that.

First, the bill would make changes regarding tobacco advertising. It would give the FDA authority to restrict tobacco industry marketing—consistent with the first amendment—that targets our children.

Additionally, our bill would require advertisements to be in black and white text only, unless they are in adult publications, and would define adult publications in terms of readership.

Next, our legislation would give consumers more information about the ingredients in tobacco products. Specifically, the bill would provide the FDA with the ability to publish the ingredients of tobacco products.

It would require a listing of all ingredients, substances, and compounds added by the manufacturer to the tobacco, to the paper, or to the filter.

It would require a description of the content, delivery, and form of nicotine in each tobacco product.

It would require information on the health, behavioral, or physiologic effects of the tobacco products.

Further, it would require tobacco companies to provide information on the reduction of risk to health available through technology.

And finally, it would establish an approval process for all new tobacco products entering the market—new products such as advance with its ''trionic filter'', which claims to have—and I quote—''all of the taste . . . less of the toxins'' of other cigarettes.

Obviously, we already know that smoking is a health risk. We all know that. But, what we don't know about is the harm caused by or what adverse health effects are created by the other ingredients in tobacco products or by how the tobacco is burned. We do not know all the details about that. Tobacco companies should share that. There are tobacco products on the market that are not conventional cigarettes. They have carbon filters running down the center of them. They are sophisticated products that burn tobacco differently, that affect the body differently, and that may cause people to smoke them differently. These are all things that should be examined, they should be reviewed, and they should be commented on by the Food and Drug Administration, so the public knows what they are choosing to consume.

Here we have a pack of Eclipse cigarettes, which claims it will—and I quote—''Change the way you smoke.'' It also claims that it—and again I quote—''may present less risk of cancer, bronchitis, and possibly emphysema.'' This is what they say in the bold print. I don't know who ''they'' are, and I don't know where they got their information, but the public should know.

Below the bold print in this same pack is the following, smaller print:

Evidence suggests that smokers who already have cardiovascular disease and who switch to Eclipse may further increase their health risk.

So in the bold print we have a statement that is not cited and not supported, and then in the fine print we have a statement that is supported by numerous studies. Which claim are you more likely to believe? And which statement should be broadcast in bold lettering to the consumer?

By introducing this bill, we are finally saying we are not going to let tobacco manufacturers have free rein over markets and consumers anymore.

Today, we are taking a step towards making sure the public gets adequate information about whether to continue to smoke or even to start smoking in the first place. We all know it is dangerous. But the tobacco companies no longer should be able to hide all the facts.

With this bill, we are not just saying, ''Buyer beware''—we all know there are dangers—but what we are saying is, ''Tobacco companies, be honest.'' We are saying, ''Tobacco companies, stop marketing to our kids.'' We are saying, ''Tobacco companies, tell consumers about what they are really buying.''

Madam President, it is time we hold these companies to the same standards we expect from other producers. It is time to give kids a fighting chance when it comes to resisting cigarettes. It is time to finally just do the right thing.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, I join my friend and colleague from Ohio, Senator DEWINE, in expressing our appreciation to all of our cosponsors for this legislation that we have introduced. And I commend him for the excellent presentation and description of the legislation that he has just given to the Senate this morning.

We indicate to our friends and colleagues that this legislation is very similar to the legislation that was included in the larger tobacco legislation the Senate considered several years ago. It was not really subject to any amendments that I remember during that period of time. That overall legislation, I believe, gained 58 votes on the floor of the Senate. So we had broad support for the legislation. In many respects, I think there is even broader support for this particular legislation.

So we are very hopeful we will be able to make progress in considering this legislation favorably in the Senate, and in the House, and have it become law. We have every intention of holding hearings and, hopefully a markup in July. I believe we will have very broad support from our colleagues for the reasons Senator DEWINE has outlined.

This legislation is focused on children and what we can do to discourage children from becoming addicted to tobacco in this country. I will just take a very few moments to review the highlights.

Just very quickly, every day, 5,000 children try their first cigarette. More than 2,000 become new daily smokers. A third will die prematurely.

If the current trend continues, 6.4 million children, who are under 18 years of age, will die prematurely from smoking related illness. 400,000 people a year die from smoke related illness. We are telling the youth of America their lives are going to be greatly shortened as a result of this kind of addiction.

As I mentioned, 400,000 Americans die each year from smoke-caused disease, and tobacco costs $75 billion in annual health care costs. These are costs that are spent by Medicare, Medicaid, veterans hospitals, and expended privately.

Again, to give the focus of where the advertising is going, this chart shows the number of teens between 12 and 17 who were reached five or more times by tobacco advertising in the year 1999.

A March 2002 study asked teenagers and adults, ''have you seen any advertising for cigarettes or spit tobacco in the last 2 weeks?'' For the teenagers, 64 percent had seen advertising; while for adults, just 27 percent.

What we are maintaining is that the industry is targeting children. These are commercial surveys, and they substantiate our point.

The money that is being expended for these extraordinary advertising budgets is targeted to teenagers, to effectively hook them and addict them.

This chart shows the very substantial increase in promotional expenditures from 1997 to the year 2000. As the chart showed, expenditures totaled $5.660 billion in 1997 and increased to $9.5 billion in the year 2000.

Over the last 5 years, it has virtually doubled. Where is it being targeted? The children. Are the children seeing it? Yes. Are they becoming more addicted? Yes. Is this really a national problem? Yes. Can we do something about it? Yes. Will this legislation do something about it? Yes, because it incorporates many of the recommendations made by former heads of the FDA as well as from the many experts we have heard from at a range of hearings we have held.

The bottom line: If smoking rates do not decline, over 6 million children who are alive today under the age of 18 will suffer premature death.

This is a matter of enormous importance. It is of importance to families, to parents, to children, and to our country. We have targeted, responsible legislation to deal with this issue. We are serious about presenting it to the Senate, which we will do. We are looking for broad support from the American people.

We are grateful for all of the public health agencies that support it: cancer, heart, lung, all of the various health-related agencies that support this legislation. They are going to be strong allies.

Mr. Myers, who is with Tobacco Free Children, has done such an extraordinary job and has made this a high priority. We are serious about it, and we hope to be able to help the families in this country by doing something about children being addicted to cigarettes.

This bill will give the Food and Drug Administration broad authority to regulate tobacco products for the protection of the public health. We cannot in good conscience allow the federal agency most responsible for protecting the public health to remain powerless to deal with the enormous risks of tobacco, the most deadly of all consumer products.

The provisions in this bill closely track those in the bipartisan compromise reached during Senate consideration of comprehensive tobacco control legislation in 1998. Fifty-eight Senators supported it at that time. That legislation was never enacted because of disputes over tobacco taxation and litigation, not over FDA authority.

This FDA provision is a fair and balanced approach to FDA regulation. It creates a new section in FDA jurisdiction for the regulation of tobacco products, with standards that allow for consideration of the unique issues raised by tobacco use. It is sensitive to the concerns of tobacco farmers, small businesses, and nicotine-dependent smokers. But, it clearly gives FDA the authority it needs in order to prevent youth smoking and to reduce addiction to this highly lethal product.

I believe that any attempt to weaken the 1998 language would undermine the FDA's ability to deal effectively with the enormous health risks posed by smoking. This concern is shared by a number of independent public health experts. The bipartisan compromise agreed to in 1998 is still the best opportunity for Senators to come together and grant FDA the regulatory authority it needs to substantially reduce the number of children who start smoking and to help addicted smokers quit. Nothing less will do the job.

The stakes are vast. Five thousand children have their first cigarette every day, and two thousand of them become daily smokers. Nearly a thousand of them will die prematurely from tobacco-induced diseases. Smoking is the number one preventable cause of death in the nation today. Cigarettes kill well over four hundred thousand Americans each year. That is more lives lost than from automobile accidents, alcohol abuse, illegal drugs, AIDS, murder, suicide, and fires combined. Our response to a public health problem of this magnitude must consist of more than half-way measures.

We must deal firmly with tobacco company marketing practices that target children and mislead the public. The Food and Drug Administration needs broad authority to regulate the sale, distribution, and advertising of cigarettes and smokeless tobacco.

The tobacco industry currently spends over nine billion dollars a year to promote its products. Much of that money is spent in ways designed to tempt children to start smoking, before they are mature enough to appreciate the enormity of the health risk. The industry knows that more than 90 percent of smokers begin as children and are addicted by the time they reach adulthood.

Documents obtained from tobacco companies prove, in the companies' own words, the magnitude of the industry's efforts to trap children into dependency on their deadly product. Recent studies by the Institute of Medicine and the Centers for Disease Control show the substantial role of industry advertising in decisions by young people to use tobacco products. If we are serious about reducing youth smoking, FDA must have the power to prevent industry advertising designed to appeal to children wherever it will be seen by children. This legislation will give FDA the ability to stop tobacco advertising which glamorizes smoking from appearing where it will be seen by significant numbers of children.

FDA authority must also extend to the sale of tobacco products. Nearly every state makes it illegal to sell cigarettes to children under 18, but surveys show that those laws are rarely enforced and frequently violated. FDA must have the power to limit the sale of cigarettes to face-to-face transactions in which the age of the purchaser can be verified by identification. This means an end to self-service displays and vending machine sales. There must also be serious enforcement efforts with real penalties for those caught selling tobacco products to children. This is the only way to ensure that children under 18 are not able to buy cigarettes.

The FDA conducted the longest rulemaking proceeding in its history, studying which regulations would most effectively reduce the number of children who smoke. Seven hundred thousand public comments were received in the course of that rulemaking. At the conclusion of its proceeding, the Agency promulgated rules on the manner in which cigarettes are advertised and sold. Due to litigation, most of those regulations were never implemented. If we are serious about curbing youth smoking as much as possible, as soon as possible; it makes no sense to require FDA to reinvent the wheel by conducting a new multi-year rulemaking process on the same issues. This legislation will give the youth access and advertising restrictions already developed by FDA the immediate force of law, as if they had been issued under the new statute.

The legislation also provides for stronger warnings on all cigarette and smokeless tobacco packages, and in all print advertisements. These warnings will be more explicit in their description of the medical problems which can result from tobacco use. The FDA is given the authority to change the text of these warning labels periodically, to keep their impact strong.

Nicotine in cigarettes is highly addictive. Medical experts say that it is as addictive as heroin or cocaine. Yet for decades, tobacco companies have vehemently denied the addictiveness of their products. No one can forget the parade of tobacco executives who testified under oath before Congress as recently as 1994 that smoking cigarettes is not addictive. Overwhelming evidence in industry documents obtained through the discovery process proves that the companies not only knew of this addictiveness for decades, but actually relied on it as the basis for their marketing strategy. As we now know, cigarette manufacturers chemically manipulated the nicotine in their products to make it even more addictive.

The tobacco industry has a long, dishonorable history of providing misleading information about the health consequences of smoking. These companies have repeatedly sought to characterize their products as far less hazardous than they are. They made minor innovations in product design seem far more significant for the health of the user than they actually were. It is essential that FDA have clear and unambiguous authority to prevent such misrepresentations in the future. The largest disinformation campaign in the history of the corporate world must end.

Given the addictiveness of tobacco products, it is essential that the FDA regulate them for the protection of the public health. Over forty million Americans are currently addicted to cigarettes. No responsible public health official believes that cigarettes should be banned. A ban would leave forty million people without a way to satisfy their drug dependency. FDA should be able to take the necessary steps to help addicted smokers overcome their addiction, and to make the product less toxic for smokers who are unable or unwilling to stop. To do so, FDA must have the authority to reduce or remove hazardous ingredients from cigarettes, to the extent that it becomes scientifically feasible. The inherent risk in smoking should not be unnecessarily compounded.

Recent statements by several tobacco companies make clear that they plan to develop what they characterize as ''reduced risk'' cigarettes. This legislation will require manufacturers to submit such ''reduced risk'' products to the FDA for analysis before they can be marketed. No health-related claims will be permitted until they have been verified to the FDA's satisfaction. These safeguards are essential to prevent deceptive industry marketing campaigns, which could lull the public into a false sense of health safety.

Smoking is the number one preventable cause of death in America. Congress must vest FDA not only with the responsibility for regulating tobacco products, but with full authority to do the job effectively.

This legislation will give the FDA the legal authority it needs: To reduce youth smoking by preventing tobacco advertising which targets children; to prevent the sale of tobacco products to minors; to help smokers overcome their addiction; to make tobacco products less toxic for those who continue to use them; and to prevent the tobacco industry from misleading the public about the dangers of smoking.

We cannot allow the tobacco industry to stop us from doing what we know is right for America's children. I intend to do all I can to see that Congress enacts this legislation this year. The public health demands it.

Mrs. FEINSTEIN. Mr. President, I rise today with Senators KENNEDY and DEWINE in support of legislation to empower the Food and Drug Administration, FDA, to regulate tobacco products.

During my time in the Senate, I have become very involved with cancer. I am the Co-Chair of the Senate Cancer Caucus and the Vice-Chair of the National Dialogue on Cancer, which is Chaired by former President and Barbara Bush.

The cancer community is united in the belief that the single most important preventive measure is to place tobacco products under the regulatory control of the FDA. I stand behind the cancer community and express the same belief.

Smoking causes one-third of all cancers, and is the cause of approximately 165,000 deaths annually.

I firmly believe that cancer cannot be conquered without addressing smoking and the use of tobacco products.

Smoking results in death or disability for over half of tobacco users, according to the Centers for Disease Control, CDC. Smoking costs the health care system over $70 billion annually.

Over the past two decades, we have learned that tobacco companies have manipulated the level of nicotine in cigarettes to increase the number of people addicted to their product.

There are more than 40 chemicals in tobacco smoke that cause cancer in humans and animals, according to the CDC. Tobacco smoke has toxic components, as well as tar, carbon monoxide and other dangerous additives.

It is long past time to reduce the addictive nature of cigarettes and curtail the marketing of these products to young people. I believe that empowering the FDA to regulate tobacco will help do that.

The U.S. Surgeon General and the Centers for Disease Control and Prevention have unequivocally demonstrated that, for example, anti-smoking campaigns can reduce smoking, a major cause of cancer.

California is a good example: My state started an aggressive tobacco control program in 1989 and throughout the 1990s, tobacco use dropped at two to three times faster than the rest of the country.

Ninety percent of adult smokers begin before age 18 and every day, 3,000 young people become smokers.

This bill will provide meaningful regulation by the Food and Drug Administration of the content and marketing of tobacco products, especially the addicting and carcinogenic components.

Dr. C. Everett Koop, former US Surgeon General, and Dr. David Kessler, former Commissioner of the Food and Drug Administration, in 1997 report, cited FDA and other studies and said:

> Nicotine in cigarettes and smokeless tobacco has the same pharmacological effects as other drugs that FDA has traditionally regulated . . . nicotine is extremely addictive . . . and the vast majority of people who use nicotine-containing cigarettes and smokeless tobacco do so to satisfy their craving for the pharmacological effects of nicotine; that is, to satisfy their drug-dependence or addiction.

They go to recommend that the ''FDA should continue to have authority to regulate all areas of nicotine, as well as other constituents and ingredients, and that authority should be made completely explicit.''

I am pleased that to note that even the Philip Morris Companies has acknowledged the need for FDA to regulate tobacco. On their website, they say:

> We believe federal legislation that includes granting FDA authority to regulate tobacco products could effectively address many of the complex tobacco issues that concern the public, the public health community and us.

It is long past time to reduce the addictive nature of cigarettes and curtail the marketing of these products to young people. This bill gives FDA the power to regulate tobacco products' content, design, sale, and marketing.

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. 2626

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 ''Youth Smoking Prevention and Public Health Protection Act''.

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

Sec. 1. Short title.
Sec. 2. Findings.
Sec. 3. Purpose.
Sec. 4. Scope and effect.

TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

Sec. 101. Amendment of Federal Food, Drug, and Cosmetic Act.

''CHAPTER IX—TOBACCO PRODUCTS

''Sec. 900. Definitions.
''Sec. 901. FDA authority over tobacco products
''Sec. 902. Adulterated tobacco products.
''Sec. 903. Misbranded tobacco products.
''Sec. 904. Submission of health information to the Secretary.
''Sec. 905. Annual registration.
''Sec. 906. General provisions respecting control of tobacco products.
''Sec. 907. Performance standards.
''Sec. 908. Notification and other remedies
''Sec. 909. Records and reports on tobacco products.
''Sec. 910. Premarket review of certain tobacco products.
''Sec. 911. Judicial review.
''Sec. 912. Postmarket surveillance
''Sec. 913. Reduced risk tobacco products.
''Sec. 914. Equal treatment of retail outlets.
''Sec. 915. Jurisdiction of and coordination with the Federal Trade Commission.
''Sec. 916. Congressional review provisions.
''Sec. 917. Regulation requirement.
''Sec. 918. Preservation of State and local authority.
''Sec. 919. Tobacco Products Scientific Advisory Committee.

Sec. 102. Construction of current regulations.
Sec. 103. Conforming and other amendments to general provisions.

TITLE II—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

Sec. 201. Cigarette label and advertising warnings.
Sec. 202. Authority to revise cigarette warning label Statements.
Sec. 203. Smokeless tobacco labels and advertising warnings.
Sec. 204. Authority to revise smokeless tobacco product warning label Statements.
Sec. 205. Tar, nicotine, and other smoke constituent disclosure to the public.
Sec. 206. Unlawful advertisements.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The use of tobacco products by the Nation's children is a pediatric disease of epic and worsening proportions that results in new generations of tobacco-dependent children and adults.

(2) A consensus exists within the scientific and medical communities that tobacco products are inherently dangerous and cause cancer, heart disease, and other serious adverse health effects.

(3) Nicotine is an addictive drug.

(4) Virtually all new users of tobacco products are under the minimum legal age to purchase such products.

(5) Tobacco advertising and marketing contribute significantly to the use of nicotine-containing tobacco products by adolescents.

(6) Because past efforts to restrict advertising and marketing of tobacco products have failed adequately to curb tobacco use

by adolescents, comprehensive restrictions on the sale, promotion, and distribution of such products are needed.

(7) Federal and State governments have lacked the legal and regulatory authority and resources they need to address comprehensively the public health and societal problems caused by the use of tobacco products.

(8) Federal and State public health officials, the public health community, and the public at large recognize that the tobacco industry should be subject to ongoing oversight.

(9) Under Article I, Section 8 of the Constitution, the Congress is vested with the responsibility for regulating interstate commerce and commerce with Indian tribes.

(10) The sale, distribution, marketing, advertising, and use of tobacco products are activities in and substantially affecting interstate commerce because they are sold, marketed, advertised, and distributed in interstate commerce on a nationwide basis, and have a substantial effect on the Nation's economy.

(11) The sale, distribution, marketing, advertising, and use of such products substantially affect interstate commerce through the health care and other costs attributable to the use of tobacco products.

(12) It is in the public interest for Congress to enact legislation that provides the Food and Drug Administration with the authority to regulate tobacco products. The benefits to the American people from enacting such legislation would be significant in human and economic terms.

(13) Tobacco use is the foremost preventable cause of premature death in America. It causes over 400,000 deaths in the United States each year.

(14) Reducing the use of tobacco by minors by 50 percent would prevent well over 10,000,000 of today's children from becoming regular, daily smokers, saving over 3,000,000 of them from premature death due to tobacco induced disease. Such a reduction in youth smoking would also result in approximately $110,000,000,000 in savings attributable to reduced health care costs.

(15) Advertising, marketing, and promotion of tobacco products have been especially directed to attract young persons to use tobacco products and these efforts have resulted in increased use of such products by youth. Past efforts to oversee these activities have not been successful in adequately preventing such increased use.

(16) In 1999, the tobacco industry spent close to $8,240,000,000 to attract new users, retain current users, increase current consumption, and generate favorable long-term attitudes toward smoking and tobacco use.

(17) Tobacco product advertising often misleadingly portrays the use of tobacco as socially acceptable and healthful to minors.

(18) Tobacco product advertising is regularly seen by persons under the age of 18, and persons under the age of 18 are regularly exposed to tobacco product promotional efforts.

(19) Through advertisements during and sponsorship of sporting events, tobacco has become strongly associated with sports and has become portrayed as an integral part of sports and the healthy lifestyle associated with rigorous sporting activity.

(20) Children are exposed to substantial and unavoidable tobacco advertising that leads to favorable beliefs about tobacco use, plays a role in leading young people to overestimate the prevalence of tobacco use, and increases the number of young people who begin to use tobacco.

(21) The use of tobacco products in motion pictures and other mass media glamorizes its use for young people and encourages them to use tobacco products.

(22) Tobacco advertising expands the size of the tobacco market by increasing consumption of tobacco products including tobacco use by young people.

(23) Children are more influenced by tobacco advertising than adults, they smoke the most advertised brands, and children as young as 3 to 6 years old can recognize a character associated with smoking at the same rate as they recognize cartoons and fast food characters.

(24) Tobacco company documents indicate that young people are an important and often crucial segment of the tobacco market.

(25) Comprehensive advertising restrictions will have a positive effect on the smoking rates of young people.

(26) Restrictions on advertising are necessary to prevent unrestricted tobacco advertising from undermining legislation prohibiting access to young people and providing for education about tobacco use.

(27) International experience shows that advertising regulations that are stringent and comprehensive have a greater impact on overall tobacco use and young people's use than weaker or less comprehensive ones.

(28) Text-only requirements, while not as stringent as a ban, will help reduce underage use of tobacco products while preserving the informational function of advertising.

(29) It is in the public interest for Congress to adopt legislation to address the public health crisis created by actions of the tobacco industry.

(30) The final regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (62 Fed. Reg. 44615-44618) for inclusion as part 897 of title 21, Code of Federal Regulations, are consistent with the standards set forth in the amendments made by this Act for the regulation of tobacco products by the Food and Drug Administration and the restriction on the sale and distribution, including access to and the advertising and promotion of, tobacco products contained in such regulations are substantially related to accomplishing the public health goals of this Act.

(31) The regulations described in paragraph (30) will directly and materially advance the Federal Government's substantial interest in reducing the number of children and adolescents who use cigarettes and smokeless tobacco and in preventing the life-threatening health consequences associated with tobacco use. An overwhelming majority of Americans who use tobacco products begin using such products while they are minors and become addicted to the nicotine in those product before reaching the age of 18. Tobacco advertising and promotion plays a crucial role in the decision of these minors to begin using tobacco products. Less restrictive and less comprehensive approaches have not and will not be effective in reducing the problems addressed by such regulations. The reasonable restrictions on the advertising and promotion of tobacco products contained in such regulations will lead to a significant decrease in the number of minors using and becoming addicted to those products.

(32) The regulations described in paragraph (30) impose no more extensive restrictions on communication by tobacco manufacturers and sellers than are necessary to reduce the number of children and adolescents who use cigarettes and smokeless tobacco and to prevent the life-threatening health consequences associated with tobacco use. Such regulations are narrowly tailored to restrict those advertising and promotional practices which are most likely to be seen or heard by youth and most likely to entice them into tobacco use, while affording tobacco manufacturers and sellers ample opportunity to convey information about their products to adult consumers.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to provide authority to the Food and Drug Administration to regulate tobacco products under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), by recognizing it as the primary Federal regulatory authority with respect to the manufacture, marketing, and distribution of tobacco products;

(2) to ensure that the Food and Drug Administration has the authority to address issues of particular concern to public health officials, especially the use of tobacco by young people and dependence on tobacco;

(3) to authorize the Food and Drug Administration to set national standards controlling the manufacture of tobacco products and the identity, public disclosure, and amount of ingredients used in such products;

(4) to provide new and flexible enforcement authority to ensure that there is effective oversight of the tobacco industry's efforts to develop and introduce less harmful tobacco products;

(5) to vest the Food and Drug Administration with the authority to regulate the levels of tar, nicotine, and other harmful components of tobacco products;

(6) in order to ensure that adults are better informed, to require tobacco product manufacturers to disclose research which has not previously been made available, as well as research generated in the future, relating to the health and dependency effects or safety of tobacco products;

(7) to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers; and

(8) to impose appropriate regulatory controls on the tobacco industry

SEC. 4. SCOPE AND EFFECT.

(a) INTENDED EFFECT.—Nothing in this Act (or an amendment made by this Act) shall be construed to—

(1) establish a precedent with regard to any other industry, situation, circumstance, or legal action; or

(2) affect any action pending in State, Tribal, or Federal court, or any agreement, consent decree, or contract of any kind.

(b) AGRICULTURAL ACTIVITIES.—The provisions of this Act (or an amendment made by this Act) which authorize the Secretary to take certain actions with regard to tobacco and tobacco products shall not be construed to affect any authority of the Secretary of Agriculture under existing law regarding the growing, cultivation, or curing of raw tobacco.

TITLE I—AUTHORITY OF THE FOOD AND DRUG ADMINISTRATION

SEC. 101. AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.

(a) DEFINITION OF TOBACCO PRODUCTS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

''(kk) The term 'tobacco product' means any product made or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product (except for raw materials other than tobacco used in manufacturing a component, part, or accessory of a tobacco product).''.

(b) FDA AUTHORITY OVER TOBACCO PRODUCTS.—The Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) is amended—

(1) by redesignating chapter IX as chapter X;

(2) by redesignating sections 901 through 907 as sections 1001 through 1007; and

(3) by inserting after section 803 the following:

"CHAPTER IX—TOBACCO PRODUCTS

"SEC. 900. DEFINITIONS.

''In this chapter:

''(1) BRAND.—The term 'brand' means a variety of tobacco product distinguished by the tobacco used, tar content, nicotine content, flavoring used, size, filtration, or packaging, logo, registered trademark or brand name, identifiable pattern of colors, or any combination of such attributes.

''(2) CIGARETTE.—The term 'cigarette' has the meaning given that term by section 3(1) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(1)), but also includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

''(3) CIGARETTE TOBACCO.—The term 'cigarette tobacco' means any product that consists of loose tobacco that is intended for use by consumers in a cigarette. Unless otherwise stated, the requirements for cigarettes shall also apply to cigarette tobacco.

''(4) COMMERCE.—The term 'commerce' has the meaning given that term by section 3(2) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(2)).

''(5) DISTRIBUTOR.—The term 'distributor' as regards a tobacco product means any person who furthers the distribution of cigarette or smokeless tobacco, whether domestic or imported, at any point from the original place of manufacture to the person who sells or distributes the product to individuals for personal consumption. Common carriers are not considered distributors for purposes of this chapter.

''(6) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given such term in section 4(e) of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b(e)).

''(7) LITTLE CIGAR.—The term 'little cigar' has the meaning given that term by section 3(7) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332(7)).

''(8) NICOTINE.—The term 'nicotine' means the chemical substance named 3-(1-Methyl-2-pyrrolidinyl) pyridine or C[10]H[14]N[2], including any salt or complex of nicotine.

''(9) PACKAGE.—The term 'package' means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane), in which cigarettes or smokeless tobacco are offered for sale, sold, or otherwise distributed to consumers.

''(10) RETAILER.—The term 'retailer' means any person who sells cigarettes or smokeless tobacco to individuals for personal consumption, or who operates a facility where self-service displays of tobacco products are permitted.

''(11) ROLL-YOUR-OWN TOBACCO.—The term 'roll-your-own tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

''(12) SMOKELESS TOBACCO.—The term 'smokeless tobacco' means any product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

''(13) STATE.—The term 'State' means any State of the United States and, for purposes of this chapter, includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

''(14) TOBACCO PRODUCT MANUFACTURER.—Term 'tobacco product manufacturer' means any person, including any repacker or relabeler, who—

''(A) manufactures, fabricates, assembles, processes, or labels a finished cigarette or smokeless tobacco product; or

''(B) imports a finished cigarette or smokeless tobacco product for sale or distribution in the United States.

''(15) UNITED STATES.—The term 'United States' means the 50 States of the United States of America and the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States.

"SEC. 901. FDA AUTHORITY OVER TOBACCO PRODUCTS.

''(a) IN GENERAL.—Tobacco products shall be regulated by the Secretary under this chapter and shall not be subject to the provisions of chapter V, unless—

''(1) such products are intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease (within the meaning of section 201(g)(1)(B) or section 201(h)(2)); or

''(2) a health claim is made for such products under section 201(g)(1)(C) or 201(h)(3).

''(b) APPLICABILITY.—This chapter shall apply to all tobacco products subject to the regulations referred to in section 102 of the Youth Smoking Prevention and Public Health Protection Act, and to any other tobacco products that the Secretary by regulation deems to be subject to this chapter.

''(c) SCOPE.—

''(1) IN GENERAL.—Nothing in this chapter, or any policy issued or regulation promulgated thereunder, or the Youth Smoking Prevention and Public Health Protection Act, shall be construed to affect the Secretary's authority over, or the regulation of, products under this Act that are not tobacco products under chapter V or any other chapter.

''(2) TOBACCO LEAF.—

''(A) IN GENERAL.—The provisions of this chapter shall not apply to tobacco leaf that is not in the possession of the manufacturer, or to the producers of tobacco leaf, including tobacco growers, tobacco warehouses, and tobacco grower cooperatives, nor shall any employee of the Food and Drug Administration have any authority to enter onto a farm owned by a producer of tobacco leaf without the written consent of such producer.

''(B) EXCEPTION.—Notwithstanding any other provision of this subparagraph, if a producer of tobacco leaf is also a tobacco product manufacturer or controlled by a tobacco product manufacturer, the producer shall be subject to this chapter in the producer's capacity as a manufacturer.

''(C) RULE OF CONSTRUCTION.—Nothing in this chapter shall be construed to grant the Secretary authority to promulgate regulations on any matter that involves the production of tobacco leaf or a producer thereof, other than activities by a manufacturer affecting production. For purposes of the preceding sentence, the term 'controlled by' means a member of the same controlled group of corporations as that term is used in section 52(a) of the Internal Revenue Code of 1986, or under common control within the meaning of the regulations promulgated under section 52(b) of such Code.

"SEC. 902. ADULTERATED TOBACCO PRODUCTS.

''A tobacco product shall be deemed to be adulterated if—

''(1) it consists in whole or in part of any filthy, putrid, or decomposed substance, or is otherwise contaminated by any poisonous or deleterious substance that may render the product injurious to health;

''(2) it has been prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health;

''(3) its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health;

''(4) it is, or purports to be or is represented as, a tobacco product which is subject to a performance standard established under section 907 unless such tobacco product is in all respects in conformity with such standard;

''(5) it is required by section 910(a) to have premarket approval, is not exempt under section 906(f), and does not have an approved application in effect;

''(6) the methods used in, or the facilities or controls used for, its manufacture, packing or storage are not in conformity with applicable requirements under section 906(e)(1) or an applicable condition prescribed by an order under section 906(e)(2); or

''(7) it is a tobacco product for which an exemption has been granted under section 906(f) for investigational use and the person who was granted such exemption or any investigator who uses such tobacco product under such exemption fails to comply with a requirement prescribed by or under such section.

"SEC. 903. MISBRANDED TOBACCO PRODUCTS.

''(a) IN GENERAL.—A tobacco product shall be deemed to be misbranded—

''(1) if its labeling is false or misleading in any particular;

''(2) if in package form unless it bears a label containing—

''(A) the name and place of business of the tobacco product manufacturer, packer, or distributor;

''(B) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; and

''(C) an accurate statement of the percentage of the tobacco used in the product that is domestically grown tobacco and the percentage that is foreign grown tobacco,

except that under subparagraph (B) reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary;

''(3) if any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements or designs in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

''(4) if it has an established name, unless its label bears, to the exclusion of any other nonproprietary name, its established name prominently printed in type as required by the Secretary by regulation;

''(5) if the Secretary has issued regulations requiring that its labeling bear adequate directions for use, or adequate warnings against use by children, that are necessary for the protection of users unless its labeling conforms in all respects to such regulations;

''(6) if it was manufactured, prepared, propagated, compounded, or processed in any State in an establishment not duly registered under section 905(b), if it was not included in a list required by section 905(i), if a notice or other information respecting it was not provided as required by such section or section 905(j), or if it does not bear such symbols from the uniform system for identification of tobacco products prescribed under section 905(e) as the Secretary by regulation requires;

''(7) if, in the case of any tobacco product distributed or offered for sale in any State—

''(A) its advertising is false or misleading in any particular; or

''(B) it is sold or distributed in violation of regulations prescribed under section 906(d);

''(8) unless, in the case of any tobacco product distributed or offered for sale in any State, the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that tobacco product—

''(A) a true statement of the tobacco product's established name as defined in paragraph (4), printed prominently; and

''(B) a brief statement of—

''(i) the uses of the tobacco product and relevant warnings, precautions, side effects, and contraindications; and

''(ii) in the case of specific tobacco products made subject to a finding by the Secretary after notice and opportunity for comment that such action is necessary to protect the public health, a full description of the components of such tobacco product or the formula showing quantitatively each ingredient of such tobacco product to the extent required in regulations which shall be issued by the Secretary after an opportunity for a hearing;

''(9) if it is a tobacco product subject to a performance standard established under section 907, unless it bears such labeling as may be prescribed in such performance standard; or

''(10) if there was a failure or refusal—

''(A) to comply with any requirement prescribed under section 904 or 908;

''(B) to furnish any material or information required by or under section 909; or

''(C) to comply with a requirement under section 912.

''(b) PRIOR APPROVAL OF LABEL STATEMENTS.—The Secretary may, by regulation, require prior approval of statements made on the label of a tobacco product. No regulation issued under this subsection may require prior approval by the Secretary of the content of any advertisement. No advertisement of a tobacco product, published after the date of enactment of the Youth Smoking Prevention and Public Health Protection Act shall, with respect to the language of label statements as prescribed under section 4 of the Cigarette Labeling and Advertising Act and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 or the regulations issued under such sections, be subject to the provisions of sections 12 through 15 of the Federal Trade Commission Act (15 U.S.C. 52 through 55).

''SEC. 904. SUBMISSION OF HEALTH INFORMATION TO THE SECRETARY.

''(a) REQUIREMENT.—Not later than 6 months after the date of enactment of the Youth Smoking Prevention and Public Health Protection Act, each tobacco product manufacturer or importer of tobacco products, or agents thereof, shall submit to the Secretary the following information:

''(1) A listing of all tobacco ingredients, substances and compounds that are, on such date, added by the manufacturer to the tobacco, paper, filter, or other component of each tobacco product by brand and by quantity in each brand and subbrand.

''(2) A description of the content, delivery, and form of nicotine in each tobacco product measured in milligrams of nicotine.

''(3) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) on the health, behavioral, or physiologic effects of tobacco products, their constituents, ingredients, and components, and tobacco additives, described in paragraph (1).

''(4) All documents (including underlying scientific information) relating to research activities, and research findings, conducted, supported, or possessed by the manufacturer (or agents thereof) that relate to the issue of whether a reduction in risk to health from tobacco products can occur upon the employment of technology available or known to the manufacturer.

''(5) All documents (including underlying scientific information) relating to marketing research involving the use of tobacco products.

An importer of a tobacco product not manufactured in the United States shall supply the information required of a tobacco product manufacturer under this subsection.

''(b) ANNUAL SUBMISSION.—A tobacco product manufacturer or importer that is required to submit information under subsection (a) shall update such information on an annual basis under a schedule determined by the Secretary.

''(c) TIME FOR SUBMISSION.—

''(1) NEW PRODUCTS.—At least 90 days prior to the delivery for introduction into interstate commerce of a tobacco product not on the market on the date of enactment of the Youth Smoking Prevention and Public Health Protection Act, the manufacturer of such product shall provide the information required under subsection (a) and such product shall be subject to the annual submission under subsection (b).

''(2) MODIFICATION OF EXISTING PRODUCTS.—If at any time a tobacco product manufacturer adds to its tobacco products a new tobacco additive, increases or decreases the quantity of an existing tobacco additive or the nicotine content, delivery, or form, or eliminates a tobacco additive from any tobacco product, the manufacturer shall within 60 days of such action so advise the Secretary in writing and reference such modification in submissions made under subsection (b).

''SEC. 905. ANNUAL REGISTRATION.

''(a) DEFINITIONS.—In this section:

''(1) MANUFACTURE, PREPARATION, COMPOUNDING, OR PROCESSING.—The term 'manufacture, preparation, compounding, or processing' shall include repackaging or otherwise changing the container, wrapper, or labeling of any tobacco product package in furtherance of the distribution of the tobacco product from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user.

''(2) NAME.—The term 'name' shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

''(b) REGISTRATION BY OWNERS AND OPERATORS.—On or before December 31 of each year every person who owns or operates any establishment in any State engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products shall register with the Secretary the name, places of business, and all such establishments of that person.

''(c) REGISTRATION OF NEW OWNERS AND OPERATORS.—Every person upon first engaging in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products in any establishment owned or operated in any State by that person shall immediately register with the Secretary that person's name, place of business, and such establishment.

''(d) REGISTRATION OF ADDED ESTABLISHMENTS.—Every person required to register under subsection (b) or (c) shall immediately register with the Secretary any additional establishment which that person owns or operates in any State and in which that person begins the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products.

''(e) UNIFORM PRODUCT IDENTIFICATION SYSTEM.—The Secretary may by regulation prescribe a uniform system for the identification of tobacco products and may require that persons who are required to list such tobacco products under subsection (i) shall list such tobacco products in accordance with such system.

''(f) PUBLIC ACCESS TO REGISTRATION INFORMATION.—The Secretary shall make available for inspection, to any person so requesting, any registration filed under this section.

''(g) BIENNIAL INSPECTION OF REGISTERED ESTABLISHMENTS.—Every establishment in any State registered with the Secretary under this section shall be subject to inspection under section 704, and every such establishment engaged in the manufacture, compounding, or processing of a tobacco product or tobacco products shall be so inspected by one or more officers or employees duly designated by the Secretary at least once in the 2-year period beginning with the date of registration of such establishment under this section and at least once in every successive 2-year period thereafter.

''(h) FOREIGN ESTABLISHMENTS MAY REGISTER.—Any establishment within any foreign country engaged in the manufacture, preparation, compounding, or processing of a tobacco product or tobacco products, may register under this section under regulations promulgated by the Secretary. Such regulations shall require such establishment to provide the information required by subsection (i) of this section and shall include provisions for registration of any such establishment upon condition that adequate and effective means are available, by arrangement with the government of such foreign country or otherwise, to enable the Secretary to determine from time to time whether tobacco products manufactured, prepared, compounded, or processed in such establishment, if imported or offered for import into the United States, shall be refused admission on any of the grounds set forth in section 801(a).

''(i) REGISTRATION INFORMATION.—

''(1) PRODUCT LIST.—Every person who registers with the Secretary under subsection (b), (c), or (d) shall, at the time of registration under any such subsection, file with the Secretary a list of all tobacco products which are being manufactured, prepared, compounded, or processed by that person for commercial distribution and which has not been included in any list of tobacco products filed by that person with the Secretary under this paragraph or paragraph (2) before such time of registration. Such list shall be prepared in such form and manner as the Secretary may prescribe and shall be accompanied by—

''(A) in the case of a tobacco product contained in the applicable list with respect to which a performance standard has been established under section 907 or which is subject to section 910, a reference to the authority for the marketing of such tobacco product and a copy of all labeling for such tobacco product;

''(B) in the case of any other tobacco product contained in an applicable list, a copy of all consumer information and other labeling for such tobacco product, a representative sampling of advertisements for such tobacco product, and, upon request made by the Secretary for good cause, a copy of all advertisements for a particular tobacco product; and

''(C) if the registrant filing a list has determined that a tobacco product contained in

such list is not subject to a performance standard established under section 907, a brief statement of the basis upon which the registrant made such determination if the Secretary requests such a statement with respect to that particular tobacco product.

''(2) BIANNUAL REPORT OF ANY CHANGE IN PRODUCT LIST.—Each person who registers with the Secretary under this section shall report to the Secretary once during the month of June of each year and once during the month of December of each year the following:

''(A) A list of each tobacco product introduced by the registrant for commercial distribution which has not been included in any list previously filed by that person with the Secretary under this subparagraph or paragraph (1). A list under this subparagraph shall list a tobacco product by its established name and shall be accompanied by the other information required by paragraph (1).

''(B) If since the date the registrant last made a report under this paragraph that person has discontinued the manufacture, preparation, compounding, or processing for commercial distribution of a tobacco product included in a list filed under subparagraph (A) or paragraph (1), notice of such discontinuance, the date of such discontinuance, and the identity of its established name.

''(C) If since the date the registrant reported under subparagraph (B) a notice of discontinuance that person has resumed the manufacture, preparation, compounding, or processing for commercial distribution of the tobacco product with respect to which such notice of discontinuance was reported, notice of such resumption, the date of such resumption, the identity of such tobacco product by established name, and other information required by paragraph (1), unless the registrant has previously reported such resumption to the Secretary under this subparagraph.

''(D) Any material change in any information previously submitted under this paragraph or paragraph (1).

''(j) REPORT PRECEDING INTRODUCTION OF CERTAIN SUBSTANTIALLY-EQUIVALENT PRODUCTS INTO INTERSTATE COMMERCE.—

''(1) IN GENERAL.—Each person who is required to register under this section and who proposes to begin the introduction or delivery for introduction into interstate commerce for commercial distribution of a tobacco product intended for human use that was not commercially marketed (other than for test marketing) in the United States as of June 1, 2002, as defined by the Secretary by regulation shall, at least 90 days before making such introduction or delivery, report to the Secretary (in such form and manner as the Secretary shall by regulation prescribe)—

''(A) the basis for such person's determination that the tobacco product is substantially equivalent, within the meaning of section 910, to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2002, that is in compliance with the requirements of this Act; and

''(B) action taken by such person to comply with the requirements under section 907 that are applicable to the tobacco product.

''(2) APPLICATION TO CERTAIN POST-JUNE 1, 2002 PRODUCTS.—A report under this subsection for a tobacco product that was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2002, and before the date of enactment of the Youth Smoking Prevention and Public Health Protection Act shall be submitted to the Secretary within 6 months after the date of enactment of that Act.

''SEC. 906. GENERAL PROVISIONS RESPECTING CONTROL OF TOBACCO PRODUCTS.

''(a) IN GENERAL.—Any requirement established by or under section 902, 903, 905, or 909 applicable to a tobacco product shall apply to such tobacco product until the applicability of the requirement to the tobacco product has been changed by action taken under section 907, section 910, or subsection (d) of this section, and any requirement established by or under section 902, 903, 905, or 909 which is inconsistent with a requirement imposed on such tobacco product under section 907, section 910, or subsection (d) of this section shall not apply to such tobacco product.

''(b) INFORMATION ON PUBLIC ACCESS AND COMMENT.—Each notice of proposed rulemaking under section 907, 908, 909, or 910, or under this section, any other notice which is published in the Federal Register with respect to any other action taken under any such section and which states the reasons for such action, and each publication of findings required to be made in connection with rulemaking under any such section shall set forth—

''(1) the manner in which interested persons may examine data and other information on which the notice or findings is based; and

''(2) the period within which interested persons may present their comments on the notice or findings (including the need therefore) orally or in writing, which period shall be at least 60 days but may not exceed 90 days unless the time is extended by the Secretary by a notice published in the Federal Register stating good cause therefore.

''(c) LIMITED CONFIDENTIALITY OF INFORMATION.—Any information reported to or otherwise obtained by the Secretary or the Secretary's representative under section 904, 907, 908, 909, or 910 or 704, or under subsection (e) or (f) of this section, which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of subsection (b)(4) of that section shall be considered confidential and shall not be disclosed, except that the information may be disclosed to other officers or employees concerned with carrying out this chapter, or when relevant in any proceeding under this chapter.

''(d) RESTRICTIONS.—

''(1) IN GENERAL.—The Secretary may by regulation require restrictions on the sale and distribution of a tobacco product, including restrictions on the access to, and the advertising and promotion of, the tobacco product, if the Secretary determines that such regulation would be appropriate for the protection of the public health. The Secretary may by regulation impose restrictions on the advertising and promotion of tobacco products consistent with and to full extent permitted by the first amendment to the Constitution. The finding as to whether such regulation would be appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

''(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

''(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

No such regulation may require that the sale or distribution of a tobacco product be limited to the written or oral authorization of a practitioner licensed by law to prescribe medical products.

''(2) LABEL STATEMENTS.—The label of a tobacco product shall bear such appropriate statements of the restrictions required by a regulation under subsection (a) as the Secretary may in such regulation prescribe.

''(3) LIMITATION.—No restriction under paragraph (1) may prohibit the sale of any tobacco product in face-to face transactions by a specific category of retail outlets.

''(e) GOOD MANUFACTURING PRACTICE REQUIREMENTS.—

''(1) METHODS, FACILITIES, AND CONTROLS TO CONFORM.—

''(A) IN GENERAL.—The Secretary may, in accordance with subparagraph (B), prescribe regulations requiring that the methods used in, and the facilities and controls used for, the manufacture, pre-production design validation (including a process to assess the performance of a tobacco product), packing and storage of a tobacco product, conform to current good manufacturing practice, as prescribed in such regulations, to assure that the public health is protected and that the tobacco product is in compliance with this chapter.

''(B) REQUIREMENTS.—The Secretary shall—

''(i) before promulgating any regulation under subparagraph (A), afford an advisory committee an opportunity to submit recommendations with respect to the regulation proposed to be promulgated;

''(ii) before promulgating any regulation under subparagraph (A), afford opportunity for an oral hearing;

''(iii) provide the advisory committee a reasonable time to make its recommendation with respect to proposed regulations under subparagraph (A); and

''(iv) in establishing the effective date of a regulation promulgated under this subsection, take into account the differences in the manner in which the different types of tobacco products have historically been produced, the financial resources of the different tobacco product manufacturers, and the state of their existing manufacturing facilities, and shall provide for a reasonable period of time for such manufacturers to conform to good manufacturing practices.

''(2) EXEMPTIONS; VARIANCES.—

''(A) PETITION.—Any person subject to any requirement prescribed under paragraph (1) may petition the Secretary for a permanent or temporary exemption or variance from such requirement. Such a petition shall be submitted to the Secretary in such form and manner as the Secretary shall prescribe and shall—

''(i) in the case of a petition for an exemption from a requirement, set forth the basis for the petitioner's determination that compliance with the requirement is not required to assure that the tobacco product will be in compliance with this chapter;

''(ii) in the case of a petition for a variance from a requirement, set forth the methods proposed to be used in, and the facilities and controls proposed to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, facilities, and controls prescribed by the requirement; and

''(iii) contain such other information as the Secretary shall prescribe.

''(B) REFERRAL TO ADVISORY COMMITTEE.—The Secretary may refer to an advisory committee any petition submitted under subparagraph (A). The advisory committee shall report its recommendations to the Secretary with respect to a petition referred to it within 60 days after the date of the petition's referral. Within 60 days after—

''(i) the date the petition was submitted to the Secretary under subparagraph (A); or

''(ii) the day after the petition was referred to an advisory committee,

whichever occurs later, the Secretary shall by order either deny the petition or approve it.

''(C) APPROVAL.—The Secretary may approve—

''(i) a petition for an exemption for a tobacco product from a requirement if the Secretary determines that compliance with such requirement is not required to assure that the tobacco product will be in compliance with this chapter; and

''(ii) a petition for a variance for a tobacco product from a requirement if the Secretary determines that the methods to be used in, and the facilities and controls to be used for, the manufacture, packing, and storage of the tobacco product in lieu of the methods, controls, and facilities prescribed by the requirement are sufficient to assure that the tobacco product will be in compliance with this chapter.

''(D) CONDITIONS.—An order of the Secretary approving a petition for a variance shall prescribe such conditions respecting the methods used in, and the facilities and controls used for, the manufacture, packing, and storage of the tobacco product to be granted the variance under the petition as may be necessary to assure that the tobacco product will be in compliance with this chapter.

''(E) HEARING.—After the issuance of an order under subparagraph (B) respecting a petition, the petitioner shall have an opportunity for an informal hearing on such order.

''(3) COMPLIANCE.—Compliance with requirements under this subsection shall not be required before the period ending 3 years after the date of enactment of the Youth Smoking Prevention and Public Health Protection Act.

''(f) EXEMPTION FOR INVESTIGATIONAL USE.—The Secretary may exempt tobacco products intended for investigational use from this chapter under such conditions as the Secretary may prescribe by regulation.

''(g) RESEARCH AND DEVELOPMENT.—The Secretary may enter into contracts for research, testing, and demonstrations respecting tobacco products and may obtain tobacco products for research, testing, and demonstration purposes without regard to section 3324(a) and (b) of title 31, United States Code, and section 5 of title 41, United States Code.

''SEC. 907. PERFORMANCE STANDARDS.

''(a) IN GENERAL.—

''(1) FINDING REQUIRED.—The Secretary may adopt performance standards for a tobacco product if the Secretary finds that a performance standard is appropriate for the protection of the public health. This finding shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

''(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

''(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

''(2) CONTENT OF PERFORMANCE STANDARDS.—A performance standard established under this section for a tobacco product—

''(A) shall include provisions to provide performance that is appropriate for the protection of the public health, including provisions, where appropriate—

''(i) for the reduction or elimination of nicotine yields of the product;

''(ii) for the reduction or elimination of other constituents or harmful components of the product; or

''(iii) relating to any other requirement under (B);

''(B) shall, where necessary to be appropriate for the protection of the public health, include—

''(i) provisions respecting the construction, components, ingredients, and properties of the tobacco product;

''(ii) provisions for the testing (on a sample basis or, if necessary, on an individual basis) of the tobacco product;

''(iii) provisions for the measurement of the performance characteristics of the tobacco product;

''(iv) provisions requiring that the results of each or of certain of the tests of the tobacco product required to be made under clause (ii) show that the tobacco product is in conformity with the portions of the standard for which the test or tests were required; and

''(v) a provision requiring that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d); and

''(C) shall, where appropriate, require the use and prescribe the form and content of labeling for the proper use of the tobacco product.

''(3) PERIODIC RE-EVALUATION OF PERFORMANCE STANDARDS.—The Secretary shall provide for periodic evaluation of performance standards established under this section to determine whether such standards should be changed to reflect new medical, scientific, or other technological data. The Secretary may provide for testing under paragraph (2) by any person.

''(4) INVOLVEMENT OF OTHER AGENCIES; INFORMED PERSONS.—In carrying out duties under this section, the Secretary shall, to the maximum extent practicable—

''(A) use personnel, facilities, and other technical support available in other Federal agencies;

''(B) consult with other Federal agencies concerned with standard-setting and other nationally or internationally recognized standard-setting entities; and

''(C) invite appropriate participation, through joint or other conferences, workshops, or other means, by informed persons representative of scientific, professional, industry, or consumer organizations who in the Secretary's judgment can make a significant contribution.

''(b) ESTABLISHMENT OF STANDARDS.—

''(1) NOTICE.—

''(A) IN GENERAL.—The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a tobacco product.

''(B) REQUIREMENTS OF NOTICE.—A notice of proposed rulemaking for the establishment or amendment of a performance standard for a tobacco product shall—

''(i) set forth a finding with supporting justification that the performance standard is appropriate for the protection of the public health;

''(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate; and

''(iii) invite interested persons to submit an existing performance standard for the tobacco product, including a draft or proposed performance standard, for consideration by the Secretary.

''(C) FINDING.—A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to be appropriate for the protection of the public health.

''(D) CONSIDERATION BY SECRETARY.—The Secretary shall consider all information submitted in connection with a proposed standard, including information concerning the countervailing effects of the performance standard on the health of adolescent tobacco users, adult tobacco users, or non-tobacco users, such as the creation of a significant demand for contraband or other tobacco products that do not meet the requirements of this chapter and the significance of such demand, and shall issue the standard if the Secretary determines that the standard would be appropriate for the protection of the public health.

''(E) COMMENT.—The Secretary shall provide for a comment period of not less than 60 days.

''(2) PROMULGATION.—

''(A) IN GENERAL.—After the expiration of the period for comment on a notice of proposed rulemaking published under paragraph (1) respecting a performance standard and after consideration of such comments and any report from an advisory committee, the Secretary shall—

''(i) promulgate a regulation establishing a performance standard and publish in the Federal Register findings on the matters referred to in paragraph (1); or

''(ii) publish a notice terminating the proceeding for the development of the standard together with the reasons for such termination.

''(B) EFFECTIVE DATE.—A regulation establishing a performance standard shall set forth the date or dates upon which the standard shall take effect, but no such regulation may take effect before one year after the date of its publication unless the Secretary determines that an earlier effective date is necessary for the protection of the public health. Such date or dates shall be established so as to minimize, consistent with the public health, economic loss to, and disruption or dislocation of, domestic and international trade.

''(3) SPECIAL RULE FOR STANDARD BANNING CLASS OF PRODUCT OR ELIMINATING NICOTINE CONTENT.—Because of the importance of a decision of the Secretary to issue a regulation establishing a performance standard—

''(A) eliminating all cigarettes, all smokeless tobacco products, or any similar class of tobacco products, or

''(B) requiring the reduction of nicotine yields of a tobacco product to zero,

it is appropriate for the Congress to have the opportunity to review such a decision. Therefore, any such standard may not take effect before a date that is 2 years after the President notifies the Congress that a final regulation imposing the restriction has been issued.

''(4) AMENDMENT; REVOCATION.—

''(A) AUTHORITY.—The Secretary, upon the Secretary's own initiative or upon petition of an interested person may by a regulation, promulgated in accordance with the requirements of paragraphs (1) and (2)(B), amend or revoke a performance standard.

''(B) EFFECTIVE DATE.—The Secretary may declare a proposed amendment of a performance standard to be effective on and after its publication in the Federal Register and until the effective date of any final action taken on such amendment if the Secretary determines that making it so effective is in the public interest.

''(5) REFERENCE TO ADVISORY COMMITTEE.—The Secretary—

''(A) may, on the Secretary's own initiative, refer a proposed regulation for the establishment, amendment, or revocation of a performance standard; or

''(B) shall, upon the request of an interested person which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation,

refer such proposed regulation to an advisory committee, for a report and recommendation

with respect to any matter involved in the proposed regulation which requires the exercise of scientific judgment. If a proposed regulation is referred under this paragraph to the advisory committee, the Secretary shall provide the advisory committee with the data and information on which such proposed regulation is based. The advisory committee shall, within 60 days after the referral of a proposed regulation and after independent study of the data and information furnished to it by the Secretary and other data and information before it, submit to the Secretary a report and recommendation respecting such regulation, together with all underlying data and information and a statement of the reason or basis for the recommendation. A copy of such report and recommendation shall be made public by the Secretary.

"SEC. 908. NOTIFICATION AND OTHER REMEDIES.

''(a) NOTIFICATION.—If the Secretary determines that—

''(1) a tobacco product which is introduced or delivered for introduction into interstate commerce for commercial distribution presents an unreasonable risk of substantial harm to the public health; and

''(2) notification under this subsection is necessary to eliminate the unreasonable risk of such harm and no more practicable means is available under the provisions of this chapter (other than this section) to eliminate such risk,

the Secretary may issue such order as may be necessary to assure that adequate notification is provided in an appropriate form, by the persons and means best suited under the circumstances involved, to all persons who should properly receive such notification in order to eliminate such risk. The Secretary may order notification by any appropriate means, including public service announcements. Before issuing an order under this subsection, the Secretary shall consult with the persons who are to give notice under the order.

''(b) NO EXEMPTION FROM OTHER LIABILITY.—Compliance with an order issued under this section shall not relieve any person from liability under Federal or State law. In awarding damages for economic loss in an action brought for the enforcement of any such liability, the value to the plaintiff in such action of any remedy provided under such order shall be taken into account.

''(c) RECALL AUTHORITY.—

''(1) IN GENERAL.—If the Secretary finds that there is a reasonable probability that a tobacco product contains a manufacturing or other defect not ordinarily contained in tobacco products on the market that would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the tobacco product) to immediately cease distribution of such tobacco product. The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such tobacco product. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

''(2) AMENDMENT OF ORDER TO REQUIRE RECALL.—

''(A) IN GENERAL.—If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the tobacco product with respect to which the order was issued, the Secretary shall, except as provided in subparagraph (B), amend the order to require a recall. The Secretary shall specify a timetable in which the tobacco product recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

''(B) NOTICE.—An amended order under subparagraph (A)—

''(i) shall not include recall of a tobacco product from individuals; and

''(ii) shall provide for notice to persons subject to the risks associated with the use of such tobacco product.

In providing the notice required by clause (ii), the Secretary may use the assistance of retailers and other persons who distributed such tobacco product. If a significant number of such persons cannot be identified, the Secretary shall notify such persons under section 705(b).

''(3) REMEDY NOT EXCLUSIVE.—The remedy provided by this subsection shall be in addition to remedies provided by subsection (a) of this section.

"SEC. 909. RECORDS AND REPORTS ON TOBACCO PRODUCTS.

''(a) IN GENERAL.—Every person who is a tobacco product manufacturer or importer of a tobacco product shall establish and maintain such records, make such reports, and provide such information, as the Secretary may by regulation reasonably require to assure that such tobacco product is not adulterated or misbranded and to otherwise protect public health. Regulations prescribed under the preceding sentence—

''(1) may require a tobacco product manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed tobacco products may have caused or contributed to a serious unexpected adverse experience associated with the use of the product or any significant increase in the frequency of a serious, expected adverse product experience;

''(2) shall require reporting of other significant adverse tobacco product experiences as determined by the Secretary to be necessary to be reported;

''(3) shall not impose requirements unduly burdensome to a tobacco product manufacturer or importer, taking into account the cost of complying with such requirements and the need for the protection of the public health and the implementation of this chapter;

''(4) when prescribing the procedure for making requests for reports or information, shall require that each request made under such regulations for submission of a report or information to the Secretary state the reason or purpose for such request and identify to the fullest extent practicable such report or information;

''(5) when requiring submission of a report or information to the Secretary, shall state the reason or purpose for the submission of such report or information and identify to the fullest extent practicable such report or information; and

''(6) may not require that the identity of any patient or user be disclosed in records, reports, or information required under this subsection unless required for the medical welfare of an individual, to determine risks to public health of a tobacco product, or to verify a record, report, or information submitted under this chapter.

In prescribing regulations under this subsection, the Secretary shall have due regard for the professional ethics of the medical profession and the interests of patients. The prohibitions of paragraph (6) continue to apply to records, reports, and information concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

''(b) REPORTS OF REMOVALS AND CORRECTIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall by regulation require a tobacco product manufacturer or importer of a tobacco product to report promptly to the Secretary any corrective action taken or removal from the market of a tobacco product undertaken by such manufacturer or importer if the removal or correction was undertaken—

''(A) to reduce a risk to health posed by the tobacco product; or

''(B) to remedy a violation of this chapter caused by the tobacco product which may present a risk to health.

A tobacco product manufacturer or importer of a tobacco product who undertakes a corrective action or removal from the market of a tobacco product which is not required to be reported under this subsection shall keep a record of such correction or removal.

''(2) EXCEPTION.—No report of the corrective action or removal of a tobacco product may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a).

"SEC. 910. PREMARKET REVIEW OF CERTAIN TOBACCO PRODUCTS.

''(a) IN GENERAL.—

''(1) PREMARKET APPROVAL REQUIRED.—

''(A) NEW PRODUCTS.—Approval under this section of an application for premarket approval for any tobacco product that is not commercially marketed (other than for test marketing) in the United States as of June 1, 2002, is required unless the manufacturer has submitted a report under section 905(j), and the Secretary has issued an order that the tobacco product is substantially equivalent to a tobacco product commercially marketed (other than for test marketing) in the United States as of June 1, 2002, that is in compliance with the requirements of this Act.

''(B) PRODUCTS INTRODUCED BETWEEN JUNE 1, 2002, AND ENACTMENT OF THIS CHAPTER.—Subparagraph (A) does not apply to a tobacco product that—

''(i) was first introduced or delivered for introduction into interstate commerce for commercial distribution in the United States after June 1, 2002, and before the date of enactment of the Youth Smoking Prevention and Public Health Protection Act; and

''(ii) for which a report was submitted under section 905(j) within 6 months after such date,

until the Secretary issues an order that the tobacco product is substantially equivalent for purposes of this section or requires premarket approval.

''(2) SUBSTANTIALLY EQUIVALENT DEFINED.—

''(A) IN GENERAL.—For purposes of this section and section 905(j), the terms 'substantially equivalent' or 'substantial equivalence' mean, with respect to the tobacco product being compared to the predicate tobacco product, that the Secretary by order has found that the tobacco product—

''(i) has the same characteristics as the predicate tobacco product; or

''(ii) has different characteristics and the information submitted contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that it is not appropriate to regulate the product under this section because the product does not raise different questions of public health.

''(B) CHARACTERISTICS.—For purposes of subparagraph (A), the term 'characteristics' means the materials, ingredients, design, composition, heating source, or other features of a tobacco product.

''(C) LIMITATION.—A tobacco product may not be found to be substantially equivalent to a predicate tobacco product that has been removed from the market at the initiative of the Secretary or that has been determined by a judicial order to be misbranded or adulterated.

''(3) HEALTH INFORMATION.—

''(A) SUMMARY.—As part of a submission under section 905(j) respecting a tobacco product, the person required to file a premarket notification under such section shall provide an adequate summary of any health information related to the tobacco product or state that such information will be made available upon request by any person.

''(B) REQUIRED INFORMATION.—Any summary under subparagraph (A) respecting a tobacco product shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such tobacco product is substantially equivalent to another tobacco product.

''(b) APPLICATION.—

''(1) CONTENTS.—An application for premarket approval shall contain—

''(A) full reports of all information, published or known to, or which should reasonably be known to, the applicant, concerning investigations which have been made to show the health risks of such tobacco product and whether such tobacco product presents less risk than other tobacco products;

''(B) a full statement of the components, ingredients, and properties, and of the principle or principles of operation, of such tobacco product;

''(C) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and, when relevant, packing and installation of, such tobacco product;

''(D) an identifying reference to any performance standard under section 907 which would be applicable to any aspect of such tobacco product, and either adequate information to show that such aspect of such tobacco product fully meets such performance standard or adequate information to justify any deviation from such standard;

''(E) such samples of such tobacco product and of components thereof as the Secretary may reasonably require;

''(F) specimens of the labeling proposed to be used for such tobacco product; and

''(G) such other information relevant to the subject matter of the application as the Secretary may require.

''(2) REFERENCE TO ADVISORY COMMITTEE.—Upon receipt of an application meeting the requirements set forth in paragraph (1), the Secretary—

''(A) may, on the Secretary's own initiative; or

''(B) shall, upon the request of an applicant,

refer such application to an advisory committee and for submission (within such period as the Secretary may establish) of a report and recommendation respecting approval of the application, together with all underlying data and the reasons or basis for the recommendation.

''(c) ACTION ON APPLICATION.—

''(1) DEADLINE.—

''(A) IN GENERAL.—As promptly as possible, but in no event later than 180 days after the receipt of an application under subsection (b), the Secretary, after considering the report and recommendation submitted under paragraph (2) of such subsection, shall—

''(i) issue an order approving the application if the Secretary finds that none of the grounds for denying approval specified in paragraph (2) of this subsection applies; or

''(ii) deny approval of the application if the Secretary finds (and sets forth the basis for such finding as part of or accompanying such denial) that one or more grounds for denial specified in paragraph (2) of this subsection apply.

''(B) RESTRICTIONS ON SALE AND DISTRIBUTION.—An order approving an application for a tobacco product may require as a condition to such approval that the sale and distribution of the tobacco product be restricted but only to the extent that the sale and distribution of a tobacco product may be restricted under a regulation under section 906(d).

''(2) DENIAL OF APPROVAL.—The Secretary shall deny approval of an application for a tobacco product if, upon the basis of the information submitted to the Secretary as part of the application and any other information before the Secretary with respect to such tobacco product, the Secretary finds that—

''(A) there is a lack of a showing that permitting such tobacco product to be marketed would be appropriate for the protection of the public health;

''(B) the methods used in, or the facilities or controls used for, the manufacture, processing, or packing of such tobacco product do not conform to the requirements of section 906(e);

''(C) based on a fair evaluation of all material facts, the proposed labeling is false or misleading in any particular; or

''(D) such tobacco product is not shown to conform in all respects to a performance standard in effect under section 907, compliance with which is a condition to approval of the application, and there is a lack of adequate information to justify the deviation from such standard.

''(3) DENIAL INFORMATION.—Any denial of an application shall, insofar as the Secretary determines to be practicable, be accompanied by a statement informing the applicant of the measures required to place such application in approvable form (which measures may include further research by the applicant in accordance with one or more protocols prescribed by the Secretary).

''(4) BASIS FOR FINDING.—For purposes of this section, the finding as to whether approval of a tobacco product is appropriate for the protection of the public health shall be determined with respect to the risks and benefits to the population as a whole, including users and non-users of the tobacco product, and taking into account—

''(A) the increased or decreased likelihood that existing users of tobacco products will stop using such products; and

''(B) the increased or decreased likelihood that those who do not use tobacco products will start using such products.

''(5) BASIS FOR ACTION.—

''(A) INVESTIGATIONS.—For purposes of paragraph (2)(A), whether permitting a tobacco product to be marketed would be appropriate for the protection of the public health shall, when appropriate, be determined on the basis of well-controlled investigations, which may include one or more clinical investigations by experts qualified by training and experience to evaluate the tobacco product.

''(B) OTHER EVIDENCE.—If the Secretary determines that there exists valid scientific evidence (other than evidence derived from investigations described in subparagraph (A)) which is sufficient to evaluate the tobacco product the Secretary may authorize that the determination for purposes of paragraph (2)(A) be made on the basis of such evidence.

''(d) WITHDRAWAL AND TEMPORARY SUSPENSION.—

''(1) IN GENERAL.—The Secretary shall, upon obtaining, where appropriate, advice on scientific matters from an advisory committee, and after due notice and opportunity for informal hearing to the holder of an approved application for a tobacco product, issue an order withdrawing approval of the application if the Secretary finds—

''(A) that the continued marketing of such tobacco product no longer is appropriate for the protection of the public health;

''(B) that the application contained or was accompanied by an untrue statement of a material fact;

''(C) that the applicant—

''(i) has failed to establish a system for maintaining records, or has repeatedly or deliberately failed to maintain records or to make reports, required by an applicable regulation under section 909;

''(ii) has refused to permit access to, or copying or verification of, such records as required by section 704; or

''(iii) has not complied with the requirements of section 905;

''(D) on the basis of new information before the Secretary with respect to such tobacco product, evaluated together with the evidence before the Secretary when the application was approved, that the methods used in, or the facilities and controls used for, the manufacture, processing, packing, or installation of such tobacco product do not conform with the requirements of section 906(e) and were not brought into conformity with such requirements within a reasonable time after receipt of written notice from the Secretary of nonconformity;

''(E) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that the labeling of such tobacco product, based on a fair evaluation of all material facts, is false or misleading in any particular and was not corrected within a reasonable time after receipt of written notice from the Secretary of such fact; or

''(F) on the basis of new information before the Secretary, evaluated together with the evidence before the Secretary when the application was approved, that such tobacco product is not shown to conform in all respects to a performance standard which is in effect under section 907, compliance with which was a condition to approval of the application, and that there is a lack of adequate information to justify the deviation from such standard.

''(2) APPEAL.—The holder of an application subject to an order issued under paragraph (1) withdrawing approval of the application may, by petition filed on or before the 30th day after the date upon which such holder receives notice of such withdrawal, obtain review thereof in accordance with subsection (e).

''(3) TEMPORARY SUSPENSION.—If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a tobacco product under an approved application would cause serious, adverse health consequences or death, that is greater than ordinarily caused by tobacco products on the market, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.

''(e) SERVICE OF ORDER.—An order issued by the Secretary under this section shall be served—

''(1) in person by any officer or employee of the department designated by the Secretary; or

''(2) by mailing the order by registered mail or certified mail addressed to the applicant at the applicant's last known address in the records of the Secretary.

''SEC. 911. JUDICIAL REVIEW.

''(a) RIGHT TO REVIEW.—

''(1) IN GENERAL.—Not later than 30 days after—

''(A) the promulgation of a regulation under section 907 establishing, amending, or revoking a performance standard for a tobacco product; or

''(B) a denial of an application for approval under section 910(c),

any person adversely affected by such regulation or order may file a petition with the United States Court of Appeals for the District of Columbia or for the circuit wherein such person resides or has his or her principal place of business for judicial review of such regulation or order.

''(2) REQUIREMENTS.—

''(A) COPY OF PETITION.—A copy of the petition filed under paragraph (1) shall be transmitted by the clerk of the court to the Secretary or other officer designated by the Secretary for that purpose.

''(B) RECORD OF PROCEEDINGS.—With respect to an action under paragraph (1), the Secretary shall file in the court the record of the proceedings on which the Secretary based the Secretary's regulation or order and each record or order shall contain a statement of the reasons for its issuance and the basis, on the record, for its issuance.

''(C) DEFINITION.—For purposes of this section, the term 'record' means all notices and other matter published in the Federal Register with respect to the regulation or order reviewed, all information submitted to the Secretary with respect to such regulation or order, proceedings of any panel or advisory committee with respect to such regulation or order, any hearing held with respect to such regulation or order, and any other information identified by the Secretary, in the administrative proceeding held with respect to such regulation or order, as being relevant to such regulation or order.

''(b) COURT MAY ORDER SECRETARY TO MAKE ADDITIONAL FINDINGS.—

''(1) IN GENERAL.—If the petitioner in an action under subsection (a)(1) applies to the court for leave to adduce additional data, views, or arguments respecting the regulation or order being reviewed and shows to the satisfaction of the court that such additional data, views, or arguments are material and that there were reasonable grounds for the petitioner's failure to adduce such data, views, or arguments in the proceedings before the Secretary, the court may order the Secretary to provide additional opportunity for the oral presentation of data, views, or arguments and for written submissions.

''(2) MODIFICATION OF OR ADDITIONAL FINDINGS.—The Secretary may modify the Secretary's findings, or make new findings by reason of the additional data, views, or arguments under paragraph (1) and shall file with the court such modified or new findings, and the Secretary's recommendation, if any, for the modification or setting aside of the regulation or order being reviewed, with the return of such additional data, views, or arguments.

''(c) STANDARD OF REVIEW.—Upon the filing of the petition under subsection (a) for judicial review of a regulation or order, the court shall have jurisdiction to review the regulation or order in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief, including interim relief, as provided in such chapter. A regulation or order described in paragraph (1) or (2) of subsection (a) shall not be affirmed if it is found to be unsupported by substantial evidence on the record taken as a whole.

''(d) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any regulation or order shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

''(e) OTHER REMEDIES.—The remedies provided for in this section shall be in addition to and not in lieu of any other remedies provided by law.

''(f) REGULATIONS AND ORDERS MUST RECITE BASIS IN RECORD.—To facilitate judicial review under this section or under any other provision of law or a regulation or order issued under section 906, 907, 908, 909, 910, or 914, each such regulation or order shall contain a statement of the reasons for its issuance and the basis, in the record of the proceedings held in connection with its issuance, for its issuance.

''SEC. 912. POSTMARKET SURVEILLANCE.

''(a) DISCRETIONARY SURVEILLANCE.—The Secretary may require a tobacco product manufacturer to conduct postmarket surveillance for a tobacco product of the manufacturer if the Secretary determines that postmarket surveillance of the tobacco product is necessary to protect the public health or is necessary to provide information regarding the health risks and other safety issues involving the tobacco product.

''(b) SURVEILLANCE APPROVAL.—Each tobacco product manufacturer required to conduct a surveillance of a tobacco product under subsection (a) shall, within 30 days after receiving notice that the manufacturer is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of useful data or other information necessary to protect the public health. The Secretary may not approve such a protocol until it has been reviewed by an appropriately qualified scientific and technical review committee established by the Secretary.

''SEC. 913. REDUCED RISK TOBACCO PRODUCTS.

''(a) REQUIREMENTS.—

''(1) IN GENERAL.—For purposes of this section, the term 'reduced risk tobacco product' means a tobacco product designated by the Secretary under paragraph (2).

''(2) DESIGNATION.—

''(A) IN GENERAL.—A product may be designated by the Secretary as a reduced risk tobacco product if the Secretary finds that the product will significantly reduce harm to individuals caused by a tobacco product and is otherwise appropriate to protect public health, based on an application submitted by the manufacturer of the product (or other responsible person) that—

''(i) demonstrates through testing on animals and short-term human testing that use of such product results in ingestion or inhalation of a substantially lower yield of toxic substances than use of conventional tobacco products; and

''(ii) if required by the Secretary, includes studies of the long-term health effects of the product.

If such studies are required, the manufacturer may consult with the Secretary regarding protocols for conducting the studies.

''(B) BASIS FOR FINDING.—In making the finding under subparagraph (A), the Secretary shall take into account—

''(i) the risks and benefits to the population as a whole, including both users of tobacco products and non-users of tobacco products;

''(ii) the increased or decreased likelihood that existing users of tobacco products will stop using such products including reduced risk tobacco products;

''(iii) the increased or decreased likelihood that those who do not use tobacco products will start to use such products, including reduced risk tobacco products; and

''(iv) the risks and benefits to consumers from the use of a reduced risk tobacco product as compared to the use of products approved under chapter V to reduce exposure to tobacco.

''(3) MARKETING REQUIREMENTS.—A tobacco product may be marketed and labeled as a reduced risk tobacco product if it—

''(A) has been designated as a reduced risk tobacco product by the Secretary under paragraph (2);

''(B) bears a label prescribed by the Secretary concerning the product's contribution to reducing harm to health; and

''(C) complies with requirements prescribed by the Secretary relating to marketing and advertising of the product, and other provisions of this chapter as prescribed by the Secretary.

''(b) REVOCATION OF DESIGNATION.—At any time after the date on which a tobacco product is designated as a reduced risk tobacco product under this section the Secretary may, after providing an opportunity for an informal hearing, revoke such designation if the Secretary determines, based on information not available at the time of the designation, that—

''(1) the finding made under subsection (a)(2) is no longer valid; or

''(2) the product is being marketed in violation of subsection (a)(3).

''(c) LIMITATION.—A tobacco product that is designated as a reduced risk tobacco product that is in compliance with subsection (a) shall not be regulated as a drug or device.

''(d) DEVELOPMENT OF REDUCED RISK TOBACCO PRODUCT TECHNOLOGY.—A tobacco product manufacturer shall provide written notice to the Secretary upon the development or acquisition by the manufacturer of any technology that would reduce the risk of a tobacco product to the health of the user for which the manufacturer is not seeking designation as a 'reduced risk tobacco product' under subsection (a).

''SEC. 914. EQUAL TREATMENT OF RETAIL OUTLETS.

''The Secretary shall issue regulations to require that retail establishments for which the predominant business is the sale of tobacco products comply with any advertising restrictions applicable to retail establishments accessible to individuals under the age of 18.

''SEC. 915. JURISDICTION OF AND COORDINATION WITH THE FEDERAL TRADE COMMISSION.

''(a) JURISDICTION.—

''(1) IN GENERAL.—Except where expressly provided in this chapter, nothing in this chapter shall be construed as limiting or diminishing the authority of the Federal Trade Commission to enforce the laws under its jurisdiction with respect to the advertising, sale, or distribution of tobacco products.

''(2) ENFORCEMENT.—Any advertising that violates this chapter or a provision of the regulations referred to in section 102 of the Youth Smoking Prevention and Public Health Protection Act, is an unfair or deceptive act or practice under section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) and shall be considered a violation of a rule promulgated under section 18 of that Act (15 U.S.C. 57a).

''(b) COORDINATION.—With respect to the requirements of section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C.

1333) and section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402)—

''(1) the Chairman of the Federal Trade Commission shall coordinate with the Secretary concerning the enforcement of such Act as such enforcement relates to unfair or deceptive acts or practices in the advertising of cigarettes or smokeless tobacco; and

''(2) the Secretary shall consult with the Chairman of such Commission in revising the label statements and requirements under such sections.

''SEC. 916. CONGRESSIONAL REVIEW PROVISIONS.

''In accordance with section 801 of title 5, United States Code, the Congress shall review, and may disapprove, any rule under this chapter that is subject to section 801. This section does not apply to the regulations referred to in section 102 of the Youth Smoking Prevention and Public Health Protection Act.

''SEC. 917. REGULATION REQUIREMENT.

''(a) TESTING, REPORTING, AND DISCLOSURE.—Not later than 24 months after the date of enactment of the Youth Smoking Prevention and Public Health Protection Act, the Secretary, acting through the Commissioner of the Food and Drug Administration, shall promulgate regulations under this Act that meet the requirements of subsection (b).

''(b) CONTENTS OF RULES.—The regulations promulgated under subsection (a) shall require the testing, reporting, and disclosure of tobacco product smoke constituents and ingredients that the Secretary determines should be disclosed to the public in order to protect the public health. Such constituents shall include tar, nicotine, carbon monoxide, and such other smoke constituents or ingredients as the Secretary may determine to be appropriate. The regulations may require that tobacco product manufacturers, packagers, or importers make such disclosures relating to tar and nicotine through labels or advertising, and make such disclosures regarding other smoke constituents or ingredients as the Secretary determines are necessary to protect the public health.

''(c) AUTHORITY.—The Food and Drug Administration shall have the authority under this chapter to conduct or to require the testing, reporting, or disclosure of tobacco product smoke constituents.

''SEC. 918. PRESERVATION OF STATE AND LOCAL AUTHORITY.

''(a) ADDITIONAL REQUIREMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this chapter, or rules promulgated under this chapter, shall be construed to limit the authority of a Federal agency (including the Armed Forces), a State or political subdivision of a State, or the government of an Indian tribe to enact, adopt, promulgate, and enforce any law, rule, regulation, or other measure with respect to tobacco products, including laws, rules, regulations, or other measures relating to or prohibiting the sale, distribution, possession, exposure to, or use of tobacco products by individuals of any age that are in addition to, or more stringent than, requirements established under this chapter. No provision of this chapter shall limit or otherwise affect any State, Tribal, or local taxation of tobacco products.

''(2) PREEMPTION OF CERTAIN STATE AND LOCAL REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no State or political subdivision of a State may establish or continue in effect with respect to a tobacco product any requirement which is different from, or in addition to, any requirement applicable under the provisions of this chapter relating to performance standards, premarket approval, adulteration, misbranding, registration, reporting, good manufacturing standards, or reduced risk products.

''(B) EXCEPTION.—Subparagraph (A) does not apply to requirements relating to the sale, use, or distribution of a tobacco product including requirements related to the access to, and the advertising and promotion of, a tobacco product.

''(b) ADDITIONAL RESTRICTIONS ON UNDERAGE USAGE.—Nothing in this chapter shall be construed to prevent a Federal agency (including the Armed Forces), a State or a political subdivision of a State, or the government of an Indian tribe from adopting and enforcing additional measures that further restrict or prohibit tobacco product sale to, use by, and accessibility to individuals under the legal age of purchase established by such agency, State, subdivision, or government of an Indian tribe.

''(c) NO LESS STRINGENT.—Nothing in this chapter is intended to supersede any State, local, or Tribal law that is not less stringent than this chapter.

''(d) RULE OF CONSTRUCTION REGARDING PRODUCT LIABILITY.—No provision of this chapter relating to a tobacco product shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any State.

''(e) WAIVERS.—Upon the application of a State or political subdivision thereof, the Secretary may, by regulation promulgated after notice and an opportunity for an oral hearing, exempt from subsection (a), under such conditions as may be prescribed in such regulation, a requirement of such State or political subdivision applicable to a tobacco product if—

''(1) the requirement is more stringent than a requirement applicable under the provisions described in subsection (a)(1) which would be applicable to the tobacco product if an exemption were not in effect under this subsection; or

''(2) the requirement—

''(A) is required by compelling local conditions; and

''(B) compliance with the requirement would not cause the tobacco product to be in violation of any applicable requirement of this chapter.

''SEC. 919. TOBACCO PRODUCTS SCIENTIFIC ADVISORY COMMITTEE.

''(a) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Youth Smoking Prevention and Public Health Protection Act, the Secretary shall establish a 9-member advisory committee, to be known as the 'Tobacco Products Scientific Advisory Committee'.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Secretary shall appoint as members of the Tobacco Products Scientific Advisory Committee individuals who are technically qualified by training and experience in the medicine, medical ethics, science, or technology involving the manufacture, evaluation, or use of tobacco products, who are of appropriately diversified professional backgrounds. The committee shall be composed of—

''(A) 3 individuals who are officers or employees of a State or local government, or of the Federal government;

''(B) 2 individuals as representatives of interests of the tobacco manufacturing industry;

''(C) 2 individuals as representatives of interests of physicians and other health care professionals; and

''(D) 2 individuals as representatives of the general public.

''(2) LIMITATION.—The Secretary may not appoint to the Advisory Committee any individual who is in the regular full-time employ of the Food and Drug Administration or any agency responsible for the enforcement of this Act. The Secretary may appoint Federal officials as ex-officio members.

''(3) CHAIRPERSON.—The Secretary shall designate 1 of the members of the Advisory Committee to serve as chairperson.

''(c) DUTIES.—The Tobacco Products Scientific Advisory Committee shall provide advice, information, and recommendations to the Secretary—

''(1) as provided in this chapter;

''(2) on the effects of the alteration of the nicotine yields from tobacco products;

''(3) on whether there is a threshold level below which nicotine yields do not produce dependence on the tobacco product involved; and

''(4) on its review of other safety, dependence, or health issues relating to tobacco products as requested by the Secretary.

''(d) COMPENSATION; SUPPORT; FACA.—

''(1) COMPENSATION AND TRAVEL.—Members of the Advisory Committee who are not officers or employees of the United States, while attending conferences or meetings of the committee or otherwise engaged in its business, shall be entitled to receive compensation at rates to be fixed by the Secretary, which may not exceed the daily equivalent of the rate in effect for level 4 of the Senior Executive Schedule under section 5382 of title 5, United States Code, for each day (including travel time) they are so engaged; and while so serving away from their homes or regular places of business each member may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

''(2) ADMINISTRATIVE SUPPORT.—The Secretary shall furnish the Advisory Committee clerical and other assistance.

''(3) NONAPPLICATION OF FACA.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) does not apply to the Advisory Committee.

''(e) PROCEEDINGS OF ADVISORY PANELS AND COMMITTEES.—The Advisory Committee shall make and maintain a transcript of any proceeding of the panel or committee. Each such panel and committee shall delete from any transcript made under this subsection information which is exempt from disclosure under section 552(b) of title 5, United States Code.''.

SEC. 102. CONSTRUCTION OF CURRENT REGULATIONS.

(a) IN GENERAL.—The final regulations promulgated by the Secretary of Health and Human Services in the August 28, 1996, issue of the Federal Register (62 Fed. Reg. 44615–44618 beginning at ''part 897'') are hereby deemed to be lawful and shall have the same legal force and effect as if such regulations had been lawfully promulgated by the Secretary under chapter IX and section 701 of the Federal Food, Drug, and Cosmetic Act (as amended by this Act). Not later than 30 days after the date of enactment of this Act, the Secretary shall republish such regulations in the Federal Register. Such regulations shall take effect on the date that is 12 months after such date of enactment, except that the Secretary may designate an earlier effective date. The Secretary shall amend the designation of authority in such regulations in accordance with this subsection.

(b) LIMITATION ON ADVISORY OPINIONS.—As of the date of enactment of this Act, the following documents issued by the Food and Drug Administration shall not constitute advisory opinions under section 10.85(d)(1) of title 21, Code of Federal Regulations, except as they apply to tobacco products, and shall not be cited by the Secretary of Health and Human Services or the Food and Drug Administration as binding precedent:

(1) The preamble to the proposed rule in the document entitled ''Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco Products to Protect Children and Adolescents'' (60 Fed. Reg. 41314–41372 (August 11, 1995)).

(2) The document entitled ''Nicotine in Cigarettes and Smokeless Tobacco Products is a Drug and These Products Are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act'' (60 Fed. Reg. 41453–41787 (August 11, 1995)).

(3) The preamble to the final rule in the document entitled ''Regulations Restricting the Sale and Distribution of Cigarettes and Smokeless Tobacco to Protect Children and Adolescents'' (61 Fed. Reg. 44396–44615 (August 28, 1996)).

(4) The document entitled ''Nicotine in Cigarettes and Smokeless Tobacco is a Drug and These Products are Nicotine Delivery Devices Under the Federal Food, Drug, and Cosmetic Act; Jurisdictional Determination'' (61 Fed. Reg. 44619–45318 (August 28, 1996)).

SEC. 103. CONFORMING AND OTHER AMENDMENTS TO GENERAL PROVISIONS.

(a) AMENDMENT OF FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference is to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(b) SECTION 301.—Section 301 (21 U.S.C. 331) is amended—

(1) in subsection (a), by inserting ''tobacco product,'' after ''device,'';

(2) in subsection (b), by inserting ''tobacco product,'' after ''device,'';

(3) in subsection (c), by inserting ''tobacco product,'' after ''device,'';

(4) in subsection (e), by striking ''515(f), or 519'' and inserting ''515(f), 519, or 909'';

(5) in subsection (g), by inserting ''tobacco product,'' after ''device,'';

(6) in subsection (h), by inserting ''tobacco product,'' after ''device,'';

(7) in subsection (j), by striking ''708, or 721'' and inserting ''708, 721, 904, 905, 906, 907, 908, or 909'';

(8) in subsection (k), by inserting ''tobacco product,'' after ''device,'';

(9) by striking subsection (p) and inserting the following:

''(p) The failure to register in accordance with section 510 or 905, the failure to provide any information required by section 510(j), 510(k), 905(i), or 905(j), or the failure to provide a notice required by section 510(j)(2) or 905(j)(2).'';

(10) by striking subsection (q)(1) and inserting the following:

''(q)(1) The failure or refusal—

''(A) to comply with any requirement prescribed under section 518, 520(g), 906(f), or 908;

''(B) to furnish any notification or other material or information required by or under section 519, 520(g), 904, 906(f), or 909; or

''(C) to comply with a requirement under section 522 or 912.'';

(11) in subsection (q)(2), by striking ''device,'' and inserting ''device or tobacco product,'';

(12) in subsection (r), by inserting ''or tobacco product'' after ''device'' each time that it appears; and

(13) by adding at the end the following:

''(aa) The sale of tobacco products in violation of a no-tobacco-sale order issued under section 303(f).''.

(c) SECTION 303.—Section 303(f) (21 U.S.C. 333(f)) is amended—

(1) by striking the subsection heading and inserting the following:

''(f) CIVIL PENALTIES; NO-TOBACCO-SALE ORDERS.—'';

(2) in paragraph (1)(A), by inserting ''or tobacco products'' after ''devices'';

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), and inserting after paragraph (2) the following:

''(3) If the Secretary finds that a person has committed repeated violations of restrictions promulgated under section 906(d) at a particular retail outlet then the Secretary may impose a no-tobacco-sale order on that person prohibiting the sale of tobacco products in that outlet. A no-tobacco-sale order may be imposed with a civil penalty under paragraph (1).'';

(4) in paragraph (4) as so redesignated—

(A) in subparagraph (A)—

(i) by striking ''assessed'' the first time it appears and inserting ''assessed, or a no-tobacco-sale order may be imposed,''; and

(ii) by striking ''penalty'' and inserting ''penalty, or upon whom a no-tobacco-order is to be imposed,'';

(B) in subparagraph (B)—

(i) by inserting after ''penalty,'' the following: ''or the period to be covered by a no-tobacco-sale order,''; and

(ii) by adding at the end the following: ''A no-tobacco-sale order permanently prohibiting an individual retail outlet from selling tobacco products shall include provisions that allow the outlet, after a specified period of time, to request that the Secretary compromise, modify, or terminate the order.''; and

(C) by adding at the end, the following:

''(D) The Secretary may compromise, modify, or terminate, with or without conditions, any no-tobacco-sale order.'';

(5) in paragraph (5) as so redesignated—

(A) by striking ''(3)(A)'' as redesignated, and inserting ''(4)(A)'';

(B) by inserting ''or the imposition of a no-tobacco-sale order'' after ''penalty'' the first 2 places it appears; and

(C) by striking ''issued.'' and inserting ''issued, or on which the no-tobacco-sale order was imposed, as the case may be.''; and

(6) in paragraph (6), as so redesignated, by striking ''paragraph (4)'' each place it appears and inserting ''paragraph (5)''.

(d) SECTION 304.—Section 304 (21 U.S.C. 334) is amended—

(1) in subsection (a)(2)—

(A) by striking ''and'' before ''(D)''; and

(B) by striking ''device.'' and inserting the following: '', (E) Any adulterated or misbranded tobacco product.'';

(2) in subsection (d)(1), by inserting ''tobacco product,'' after ''device,'';

(3) in subsection (g)(1), by inserting ''or tobacco product'' after ''device'' each place it appears; and

(4) in subsection (g)(2)(A), by inserting ''or tobacco product'' after ''device'' each place it appears.

(e) SECTION 702.—Section 702(a) (21 U.S.C. 372(a)) is amended—

(1) by inserting ''(1)'' after ''(a)''; and

(2) by adding at the end thereof the following:

''(2) For a tobacco product, to the extent feasible, the Secretary shall contract with the States in accordance with paragraph (1) to carry out inspections of retailers in connection with the enforcement of this Act.''.

(f) SECTION 703.—Section 703 (21 U.S.C. 373) is amended—

(1) by inserting ''tobacco product,'' after ''device,'' each place it appears; and

(2) by inserting ''tobacco products,'' after ''devices,'' each place it appears.

(g) SECTION 704.—Section 704 (21 U.S.C. 374) is amended—

(1) in subsection (a)(1)(A), by inserting ''tobacco products,'' after ''devices,'' each place it appears;

(2) in subsection (a)(1)(B), by inserting ''or tobacco product'' after ''restricted devices'' each place it appears; and

(3) in subsection (b), by inserting ''tobacco product,'' after ''device,''.

(h) SECTION 705.—Section 705(b) (21 U.S.C. 375(b)) is amended by inserting ''tobacco products,'' after ''devices,''.

(i) SECTION 709.—Section 709 (21 U.S.C. 379) is amended by inserting ''or tobacco product'' after ''device''.

(j) SECTION 801.—Section 801 (21 U.S.C. 381) is amended—

(1) in subsection (a)—

(A) by inserting ''tobacco products,'' after ''devices,'' the first time it appears;

(B) by inserting ''or subsection (j) of section 905'' after ''section 510''; and

(C) by striking ''drugs or devices'' each time it appears and inserting ''drugs, devices, or tobacco products'';

(2) in subsection (e)—

(A) in paragraph (1), by inserting ''tobacco product,'' after ''device,''; and

(B) by redesignating paragraph (4) as paragraph (5) and inserting after paragraph (3), the following:

''(4) Paragraph (1) does not apply to any tobacco product—

''(A) which does not comply with an applicable requirement of section 907 or 910; or

''(B) which under section 906(f) is exempt from either such section.

This paragraph does not apply if the Secretary has determined that the exportation of the tobacco product is not contrary to the public health and safety and has the approval of the country to which it is intended for export or the tobacco product is eligible for export under section 802.''.

(k) SECTION 802.—Section 802 (21 U.S.C. 382) is amended—

(1) in subsection (a), by striking ''device—'' and inserting ''device or tobacco product—'';

(2) in subsection (a)(1)(C), by striking ''and'' after the semicolon;

(3) in subsection (a)(2), by striking subparagraph (C) and all that follows in that subsection and inserting the following:

''(C) is a banned device under section 516; or

''(3) which, in the case of a tobacco product—

''(A) does not comply with an applicable requirement of section 907 or 910; or

''(B) under section 906(f) is exempt from either such section,

is adulterated, misbranded, and in violation of such sections or Act unless the export of the drug, device, or tobacco product is, except as provided in subsection (f), authorized under subsection (b), (c), (d), or (e) of this section or section 801(e)(2) or 801(e)(4). If a drug, device, or tobacco product described in paragraph (1), (2), or (3) may be exported under subsection (b) and if an application for such drug or device under section 505, 515, or 910 of this Act or section 351 of the Public Health Service Act (42 U.S.C. 262) was disapproved, the Secretary shall notify the appropriate public health official of the country to which such drug, device, or tobacco product will be exported of such disapproval.'';

(4) in subsection (b)(1)(A), by inserting ''or tobacco product'' after ''device'' each time it appears;

(5) in subsection (c), by inserting ''or tobacco product'' after ''device'' and inserting ''or section 906(f)'' after ''520(g).'';

(6) in subsection (f), by inserting ''or tobacco product'' after ''device'' each time it appears; and

(7) in subsection (g), by inserting ''or tobacco product'' after ''device'' each time it appears.

(l) SECTION 1003.—Section 1003(d)(2)(C) (as redesignated by section 101(a)) is amended—

(1) by striking ''and'' after ''cosmetics,''; and

(2) inserting a comma and ''and tobacco products'' after ''devices''.

(m) EFFECTIVE DATE FOR NO-TOBACCO-SALE ORDER AMENDMENTS.—The amendments made by subsection (c), other than the amendment made by paragraph (2) of such subsection, shall take effect only upon the promulgation of final regulations by the Secretary of Health and Human Services—

(1) defining the term ''repeated violation'', as used in section 303(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(f)) as amended by subsection (c), by identifying the number of violations of particular requirements over a specified period of time that constitute a repeated violation;

(2) providing for notice to the retailer of each violation at a particular retail outlet;

(3) providing that a person may not be charged with a violation at a particular retail outlet unless the Secretary has provided notice to the retailer of all previous violations at that outlet;

(4) establishing a period of time during which, if there are no violations by a particular retail outlet, that outlet will not considered to have been the site of repeated violations when the next violation occurs; and

(5) providing that good faith reliance on false identification does not constitute a violation of any minimum age requirement for the sale of tobacco products.

TITLE II—TOBACCO PRODUCT WARNINGS AND SMOKE CONSTITUENT DISCLOSURE

SEC. 201. CIGARETTE LABEL AND ADVERTISING WARNINGS.

(a) IN GENERAL.—Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333) is amended to read as follows:

''SEC. 4. LABELING.

''(a) LABEL REQUIREMENTS.—

''(1) IN GENERAL.—It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any cigarettes the package of which fails to bear, in accordance with the requirements of this section, one of the following labels:

''WARNING: Cigarettes are addictive''

''WARNING: Tobacco smoke can harm your children''

''WARNING: Cigarettes cause fatal lung disease''

''WARNING: Cigarettes cause cancer''

''WARNING: Cigarettes cause strokes and heart disease''

''WARNING: Smoking during pregnancy can harm your baby''

''WARNING: Smoking can kill you''

''WARNING: Tobacco smoke causes fatal lung disease in non-smokers''

''WARNING: Quitting smoking now greatly reduces serious risks to your health''

''(2) PLACEMENT; TYPOGRAPHY; ETC.—

''(A) IN GENERAL.—Each label statement required by paragraph (1) shall be located in the upper portion of the front and rear panels of the package, directly on the package underneath the cellophane or other clear wrapping. Except as provided in subparagraph (B), each label statement shall comprise at least the top 25 percent of the front and rear panels of the package. The word ''WARNING'' shall appear in capital letters and all text shall be in conspicuous and legible 17-point type, unless the text of the label statement would occupy more than 70 percent of such area, in which case the text may be in a smaller conspicuous and legible type size, provided that at least 60 percent of such area is occupied by required text. The text shall be black on a white background, or white on a black background, in a manner that contrasts, by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(4).

''(B) FLIP-TOP BOXES.—For any cigarette brand package manufactured or distributed before January 1, 2000, which employs a flip-top style (if such packaging was used for that brand in commerce prior to June 21, 1997), the label statement required by paragraph (1) shall be located on the flip-top area of the package, even if such area is less than 25 percent of the area of the front panel. Except as provided in this paragraph, the provisions of this subsection shall apply to such packages.

''(3) DOES NOT APPLY TO FOREIGN DISTRIBUTION.—The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of cigarettes which does not manufacture, package, or import cigarettes for sale or distribution within the United States.

''(b) ADVERTISING REQUIREMENTS.—

''(1) IN GENERAL.—It shall be unlawful for any tobacco product manufacturer, importer, distributor, or retailer of cigarettes to advertise or cause to be advertised within the United States any cigarette unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a) of this section.

''(2) TYPOGRAPHY, ETC.—Each label statement required by subsection (a) of this section in cigarette advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall comprise at least 20 percent of the area of the advertisement and shall appear in a conspicuous and prominent format and location at the top of each advertisement within the trim area. The Secretary may revise the required type sizes in such area in such manner as the Secretary determines appropriate. The word ''WARNING'' shall appear in capital letters, and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black if the background is white and white if the background is black, under the plan submitted under paragraph (4) of this subsection. The label statements shall be enclosed by a rectangular border that is the same color as the letters of the statements and that is the width of the first downstroke of the capital ''W'' of the word ''WARNING'' in the label statements. The text of such label statements shall be in a typeface pro rata to the following requirements: 45-point type for a whole-page broadsheet newspaper advertisement; 39-point type for a half-page broadsheet newspaper advertisement; 39-point type for a whole-page tabloid newspaper advertisement; 27-point type for a half-page tabloid newspaper advertisement; 31.5-point type for a double page spread magazine or whole-page magazine advertisement; 22.5-point type for a 28 centimeter by 3 column advertisement; and 15-point type for a 20 centimeter by 2 column advertisement. The label statements shall be in English, except that in the case of—

''(A) an advertisement that appears in a newspaper, magazine, periodical, or other publication that is not in English, the statements shall appear in the predominant language of the publication; and

''(B) in the case of any other advertisement that is not in English, the statements shall appear in the same language as that principally used in the advertisement.

''(3) ADJUSTMENT BY SECRETARY.—The Secretary may, through a rulemaking under section 553 of title 5, United States Code, adjust the format and type sizes for the label statements required by this section or the text, format, and type sizes of any required tar, nicotine yield, or other constituent disclosures, or to establish the text, format, and type sizes for any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et. seq.). The text of any such label statements or disclosures shall be required to appear only within the 20 percent area of cigarette advertisements provided by paragraph (2) of this subsection. The Secretary shall promulgate regulations which provide for adjustments in the format and type sizes of any text required to appear in such area to ensure that the total text required to appear by law will fit within such area.

''(4) MARKETING REQUIREMENTS.—

''(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

''(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of cigarettes in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

''(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

''(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

''(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.''.

(b) REPEAL OF PROHIBITION ON STATE RESTRICTION.—Section 5 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1334) is amended—

(1) by striking ''(a) ADDITIONAL STATEMENTS.—'' in subsection (a); and

(2) by striking subsection (b).

SEC. 202. AUTHORITY TO REVISE CIGARETTE WARNING LABEL STATEMENTS.

Section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333), as amended by section 301 of this title, is further amended by adding at the end the following:

''(c) CHANGE IN REQUIRED STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of tobacco products.''.

SEC. 203. SMOKELESS TOBACCO LABELS AND ADVERTISING WARNINGS.

Section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402) is amended to read as follows:

''SEC. 3. SMOKELESS TOBACCO WARNING.

''(a) GENERAL RULE.—

''(1) It shall be unlawful for any person to manufacture, package, or import for sale or distribution within the United States any smokeless tobacco product unless the product package bears, in accordance with the requirements of this Act, one of the following labels:

''WARNING: This product can cause mouth cancer''
''WARNING: This product can cause gum disease and tooth loss''
''WARNING: This product is not a safe alternative to cigarettes''
''WARNING: Smokeless tobacco is addictive''

''(2) Each label statement required by paragraph (1) shall be—

''(A) located on the 2 principal display panels of the package, and each label statement shall comprise at least 25 percent of each such display panel; and

''(B) in 17-point conspicuous and legible type and in black text on a white background, or white text on a black background, in a manner that contrasts by typography, layout, or color, with all other printed material on the package, in an alternating fashion under the plan submitted under subsection (b)(3), except that if the text of a label statement would occupy more than 70 percent of the area specified by subparagraph (A), such text may appear in a smaller type size, so long as at least 60 percent of such warning area is occupied by the label statement.

''(3) The label statements required by paragraph (1) shall be introduced by each tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products concurrently into the distribution chain of such products.

''(4) The provisions of this subsection do not apply to a tobacco product manufacturer or distributor of any smokeless tobacco product that does not manufacture, package, or import smokeless tobacco products for sale or distribution within the United States.

''(b) REQUIRED LABELS.—

''(1) It shall be unlawful for any tobacco product manufacturer, packager, importer, distributor, or retailer of smokeless tobacco products to advertise or cause to be advertised within the United States any smokeless tobacco product unless its advertising bears, in accordance with the requirements of this section, one of the labels specified in subsection (a).

''(2) Each label statement required by subsection (a) in smokeless tobacco advertising shall comply with the standards set forth in this paragraph. For press and poster advertisements, each such statement and (where applicable) any required statement relating to tar, nicotine, or other constituent yield shall—

''(A) comprise at least 20 percent of the area of the advertisement, and the warning area shall be delineated by a dividing line of contrasting color from the advertisement; and

''(B) the word ''WARNING'' shall appear in capital letters and each label statement shall appear in conspicuous and legible type. The text of the label statement shall be black on a white background, or white on a black background, in an alternating fashion under the plan submitted under paragraph (3).

''(3)(A) The label statements specified in subsection (a)(1) shall be randomly displayed in each 12-month period, in as equal a number of times as is possible on each brand of the product and be randomly distributed in all areas of the United States in which the product is marketed in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer and approved by the Secretary.

''(B) The label statements specified in subsection (a)(1) shall be rotated quarterly in alternating sequence in advertisements for each brand of smokeless tobacco product in accordance with a plan submitted by the tobacco product manufacturer, importer, distributor, or retailer to, and approved by, the Secretary.

''(C) The Secretary shall review each plan submitted under subparagraph (B) and approve it if the plan—

''(i) will provide for the equal distribution and display on packaging and the rotation required in advertising under this subsection; and

''(ii) assures that all of the labels required under this section will be displayed by the tobacco product manufacturer, importer, distributor, or retailer at the same time.

''(c) TELEVISION AND RADIO ADVERTISING.—It is unlawful to advertise smokeless tobacco on any medium of electronic communications subject to the jurisdiction of the Federal Communications Commission.''.

SEC. 204. AUTHORITY TO REVISE SMOKELESS TOBACCO PRODUCT WARNING LABEL STATEMENTS.

Section 3 of, as amended by section 303 of this title, is further amended by adding at the end the following:

''(d) AUTHORITY TO REVISE WARNING LABEL STATEMENTS.—The Secretary may, by a rulemaking conducted under section 553 of title 5, United States Code, adjust the format, type size, and text of any of the warning label statements required by subsection (a) of this section, or establish the format, type size, and text of any other disclosures required under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), if the Secretary finds that such a change would promote greater public understanding of the risks associated with the use of smokeless tobacco products.''.

SEC. 205. TAR, NICOTINE, AND OTHER SMOKE CONSTITUENT DISCLOSURE TO THE PUBLIC.

Section 4(a) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333 (a)), as amended by section 301 of this title, is further amended by adding at the end the following:

''(4)(A) The Secretary shall, by a rulemaking conducted under section 553 of title 5, United States Code, determine (in the Secretary's sole discretion) whether cigarette and other tobacco product manufacturers shall be required to include in the area of each cigarette advertisement specified by subsection (b) of this section, or on the package label, or both, the tar and nicotine yields of the advertised or packaged brand. Any such disclosure shall be in accordance with the methodology established under such regulations, shall conform to the type size requirements of subsection (b) of this section, and shall appear within the area specified in subsection (b) of this section.

''(B) Any differences between the requirements established by the Secretary under subparagraph (A) and tar and nicotine yield reporting requirements established by the Federal Trade Commission shall be resolved by a memorandum of understanding between the Secretary and the Federal Trade Commission.

''(C) In addition to the disclosures required by subparagraph (A) of this paragraph, the Secretary may, under a rulemaking conducted under section 553 of title 5, United States Code, prescribe disclosure requirements regarding the level of any cigarette or other tobacco product smoke constituent. Any such disclosure may be required if the Secretary determines that disclosure would be of benefit to the public health, or otherwise would increase consumer awareness of the health consequences of the use of tobacco products, except that no such prescribed disclosure shall be required on the face of any cigarette package or advertisement. Nothing in this section shall prohibit the Secretary from requiring such prescribed disclosure through a cigarette or other tobacco product package or advertisement insert, or by any other means under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).''.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3847. Mr. LEAHY (for himself and Mr. HATCH) proposed an amendment to the bill H.R. 3275, to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes.

SA 3848. Mr. LEAHY (for himself and Mr. HATCH) proposed an amendment to the bill S. 1770, supra.

SA 3849. Mr. REID (for Mr. WELLSTONE (for himself and Mr. GRAHAM)) proposed an amendment to the bill S. Res. 283, recognizing the successful completion of democratic elections in the Republic of Colombia.

SA 3847. Mr. LEAHY (for himself and Mr. HATCH) proposed an amendment to the bill H.R. 3275, to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

TITLE I—SUPPRESSION OF TERRORIST BOMBINGS

SEC. 101. SHORT TITLE.

This title may be cited as the ''Terrorist Bombings Convention Implementation Act of 2001''.

SEC. 102. BOMBING STATUTE.

(a) OFFENSE.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332e the following:

''§ 2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities

''(a) OFFENSES.—

''(1) IN GENERAL.—Whoever unlawfully delivers, places, discharges, or detonates an explosive or other lethal device in, into, or against a place of public use, a state or government facility, a public transportation system, or an infrastructure facility—

''(A) with the intent to cause death or serious bodily injury, or

''(B) with the intent to cause extensive destruction of such a place, facility, or system, where such destruction results in or is likely to result in major economic loss,

shall be punished as prescribed in subsection (c).

''(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (c).

''(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) if—

''(1) the offense takes place in the United States and—

''(A) the offense is committed against another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

''(B) the offense is committed in an attempt to compel another state or the United States to do or abstain from doing any act;

''(C) at the time the offense is committed, it is committed—

''(i) on board a vessel flying the flag of another state;

''(ii) on board an aircraft which is registered under the laws of another state; or

''(iii) on board an aircraft which is operated by the government of another state;

''(D) a perpetrator is found outside the United States;

''(E) a perpetrator is a national of another state or a stateless person; or

''(F) a victim is a national of another state or a stateless person;

''(2) the offense takes place outside the United States and—

''(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

''(B) a victim is a national of the United States;

''(C) a perpetrator is found in the United States;

''(D) the offense is committed in an attempt to compel the United States to do or abstain from doing any act;

''(E) the offense is committed against a state or government facility of the United States, including an embassy or other diplomatic or consular premises of the United States;

''(F) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed; or

''(G) the offense is committed on board an aircraft which is operated by the United States.

''(c) PENALTIES.—Whoever violates this section shall be punished as provided under section 2332a(a) of this title.

''(d) EXEMPTIONS TO JURISDICTION.—This section does not apply to—

''(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law,

''(2) activities undertaken by military forces of a state in the exercise of their official duties; or

''(3) offenses committed within the United States, where the alleged offender and the victims are United States citizens and the alleged offender is found in the United States, or where jurisdiction is predicated solely on the nationality of the victims or the alleged offender and the offense has no substantial effect on interstate or foreign commerce.

''(e) DEFINITIONS.—As used in this section, the term—

''(1) 'serious bodily injury' has the meaning given that term in section 1365(g)(3) of this title;

''(2) 'national of the United States' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(3) 'state or government facility' includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of Government, the legislature or the judiciary or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

''(4) 'intergovernmental organization' includes international organization (as defined in section 1116(b)(5) of this title);

''(5) 'infrastructure facility' means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel, or communications;

''(6) 'place of public use' means those parts of any building, land, street, waterway, or other location that are accessible or open to members of the public, whether continuously, periodically, or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational, or similar place that is so accessible or open to the public;

''(7) 'public transportation system' means all facilities, conveyances, and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

''(8) 'explosive' has the meaning given in section 844(j) of this title insofar that it is designed, or has the capability, to cause death, serious bodily injury, or substantial material damage;

''(9) 'other lethal device' means any weapon or device that is designed or has the capability to cause death, serious bodily injury, or substantial damage to property through the release, dissemination, or impact of toxic chemicals, biological agents, or toxins (as those terms are defined in section 178 of this title) or radiation or radioactive material;

''(10) 'military forces of a state' means the armed forces of a state which are organized, trained, and equipped under its internal law for the primary purpose of national defense or security, and persons acting in support of those armed forces who are under their formal command, control, and responsibility;

''(11) 'armed conflict' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature; and

''(12) 'state' has the same meaning as that term has under international law, and includes all political subdivisions thereof.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by inserting after section 2332e the following:

''2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities.''.

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the applicability of any other Federal or State law which might pertain to the underlying conduct.

SEC. 103. EFFECTIVE DATE.

Section 102 shall take effect on the date that the International Convention for the Suppression of Terrorist Bombings enters into force for the United States.

TITLE II—SUPPRESSION OF THE FINANCING OF TERRORISM

SEC. 201. SHORT TITLE.

This title may be cited as the ''Suppression of the Financing of Terrorism Convention Implementation Act of 2001''.

SEC. 202. TERRORISM FINANCING STATUTE.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by adding at the end thereof the following new section:

''§ 2339C. Prohibitions against the financing of terrorism

''(a) OFFENSES.—

''(1) IN GENERAL.—Whoever, in a circumstance described in subsection (c), by any means, directly or indirectly, unlawfully and willfully provides or collects funds with the intention that such funds be used, or with the knowledge that such funds are to be used, in full or in part, in order to carry out—

''(A) an act which constitutes an offense within the scope of a treaty specified in subsection (e)(7), as implemented by the United States, or

''(B) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act,

shall be punished as prescribed in subsection (d)(1).

''(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(1).

''(3) RELATIONSHIP TO PREDICATE ACT.—For an act to constitute an offense set forth in this subsection, it shall not be necessary that the funds were actually used to carry out a predicate act.

''(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) in the following circumstances—

''(1) the offense takes place in the United States and—

''(A) a perpetrator was a national of another state or a stateless person;

''(B) on board a vessel flying the flag of another state or an aircraft which is registered under the laws of another state at the time the offense is committed;

''(C) on board an aircraft which is operated by the government of another state;

''(D) a perpetrator is found outside the United States;

''(E) was directed toward or resulted in the carrying out of a predicate act against—

''(i) a national of another state; or

''(ii) another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

''(F) was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel another state or international organization to do or abstain from doing any act; or

''(G) was directed toward or resulted in the carrying out of a predicate act—

''(i) outside the United States; or

''(ii) within the United States, and either the offense or the predicate act was conducted in, or the results thereof affected, interstate or foreign commerce;

''(2) the offense takes place outside the United States and—

''(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

''(B) a perpetrator is found in the United States; or

''(C) was directed toward or resulted in the carrying out of a predicate act against—

''(i) any property that is owned, leased, or used by the United States or by any department or agency of the United States, including an embassy or other diplomatic or consular premises of the United States;

''(ii) any person or property within the United States;

''(iii) any national of the United States or the property of such national; or

''(iv) any property of any legal entity organized under the laws of the United States, including any of its States, districts, commonwealths, territories, or possessions;

''(3) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed;

''(4) the offense is committed on board an aircraft which is operated by the United States; or

''(5) the offense was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel the

United States to do or abstain from doing any act.

''(c) CONCEALMENT.—Whoever—

''(1)(A) is in the United States; or

''(B) is outside the United States and is a national of the United States or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions); and

''(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support, resources, or funds—

''(A) knowing or intending that the support or resources were provided in violation of section 2339B of this title; or

''(B) knowing or intending that any such funds or any proceeds of such funds were provided or collected in violation of subsection (a);

shall be punished as prescribed in subsection (d)(2).

''(d) PENALTIES.—

''(1) SUBSECTION (A).—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 20 years, or both.

''(2) SUBSECTION (C).—Whoever violates subsection (c) shall be fined under this title, imprisoned for not more than 10 years, or both.

''(e) DEFINITIONS.—In this section—

''(1) the term 'funds' means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including coin, currency, bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, and letters of credit;

''(2) the term 'government facility' means any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of a government, the legislature, or the judiciary, or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

''(3) the term 'proceeds' means any funds derived from or obtained, directly or indirectly, through the commission of an offense set forth in subsection (a);

''(4) the term 'provides' includes giving, donating, and transmitting;

''(5) the term 'collects' includes raising and receiving;

''(6) the term 'predicate act' means any act referred to in subparagraph (A) or (B) of subsection (a)(1);

''(7) the term 'treaty' means—

''(A) the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970;

''(B) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971;

''(C) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973;

''(D) the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979;

''(E) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on March 3, 1980;

''(F) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on February 24, 1988;

''(G) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988;

''(H) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988; or

''(I) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997;

''(8) the term 'intergovernmental organization' includes international organizations;

''(9) the term 'international organization' has the same meaning as in section 1116(b)(5) of this title;

''(10) the term 'armed conflict' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature;

''(11) the term 'serious bodily injury' has the same meaning as in section 1365(g)(3) of this title;

''(12) the term 'national of the United States' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

''(13) the term 'state' has the same meaning as that term has under international law, and includes all political subdivisions thereof.

''(f) CIVIL PENALTY.—In addition to any other criminal, civil, or administrative liability or penalty, any legal entity located within the United States or organized under the laws of the United States, including any of the laws of its States, districts, commonwealths, territories, or possessions, shall be liable to the United States for the sum of at least $10,000, if a person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end thereof the following:

''2339C. Prohibitions against the financing of terrorism.''.

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the scope or applicability of any other Federal or State law.

SEC. 203. EFFECTIVE DATE.

Except for paragraphs (1)(D) and (2)(B) of section 2339C(b) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of the Financing of Terrorism enters into force for the United States, and for the provisions of section 2339C(e)(7)(I) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of Terrorist Bombing enters into force for the United States, section 202 shall take effect on the date of enactment of this Act.

TITLE III—ANCILLARY MEASURES

SEC. 301. ANCILLARY MEASURES.

(a) WIRETAP PREDICATES.—Section 2516(1)(q) of title 18, United States Code, is amended by—

(1) inserting ''2332f,'' after ''2332d,''; and

(2) striking ''or 2339B'' and inserting ''2339B, or 2339C''.

(b) FEDERAL CRIME OF TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by—

(1) inserting ''2332f (relating to bombing of public places and facilities),'' after ''2332b (relating to acts of terrorism transcending national boundaries),''; and

(2) inserting ''2339C (relating to financing of terrorism,'' before ''or 2340A (relating to torture)''.

(c) PROVIDING MATERIAL SUPPORT TO TERRORISTS PREDICATE.—Section 2339A of title 18, United States Code, is amended by inserting ''2332f,'' before ''or 2340A''.

(d) FORFEITURE OF FUNDS, PROCEEDS, AND INSTRUMENTALITIES.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

''(H) Any property, real or personal, involved in a violation or attempted violation, or which constitutes or is derived from proceeds traceable to a violation, of section 2339C of this title.''.

SA 3848. Mr. LEAHY (for himself and Mr. HATCH) proposed an amendment to the bill S. 1770, to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

TITLE I—SUPPRESSION OF TERRORIST BOMBINGS

SEC. 101. SHORT TITLE.

This title may be cited as the ''Terrorist Bombings Convention Implementation Act of 2001''.

SEC. 102. BOMBING STATUTE.

(a) OFFENSE.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332e the following:

''§ 2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities

''(a) OFFENSES.—

''(1) IN GENERAL.—Whoever unlawfully delivers, places, discharges, or detonates an explosive or other lethal device in, into, or against a place of public use, a state or government facility, a public transportation system, or an infrastructure facility—

''(A) with the intent to cause death or serious bodily injury, or

''(B) with the intent to cause extensive destruction of such a place, facility, or system, where such destruction results in or is likely to result in major economic loss,

shall be punished as prescribed in subsection (c).

''(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (c).

''(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) if—

''(1) the offense takes place in the United States and—

''(A) the offense is committed against another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

''(B) the offense is committed in an attempt to compel another state or the United States to do or abstain from doing any act;

''(C) at the time the offense is committed, it is committed—

''(i) on board a vessel flying the flag of another state;

''(ii) on board an aircraft which is registered under the laws of another state; or

''(iii) on board an aircraft which is operated by the government of another state;

''(D) a perpetrator is found outside the United States;

''(E) a perpetrator is a national of another state or a stateless person; or

''(F) a victim is a national of another state or a stateless person;

''(2) the offense takes place outside the United States and—

''(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

''(B) a victim is a national of the United States;

''(C) a perpetrator is found in the United States;

''(D) the offense is committed in an attempt to compel the United States to do or abstain from doing any act;

''(E) the offense is committed against a state or government facility of the United States, including an embassy or other diplomatic or consular premises of the United States;

''(F) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed; or

''(G) the offense is committed on board an aircraft which is operated by the United States.

''(c) PENALTIES.—Whoever violates this section shall be punished as provided under section 2332a(a) of this title.

''(d) EXEMPTIONS TO JURISDICTION.—This section does not apply to—

''(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law,

''(2) activities undertaken by military forces of a state in the exercise of their official duties; or

''(3) offenses committed within the United States, where the alleged offender and the victims are United States citizens and the alleged offender is found in the United States, or where jurisdiction is predicated solely on the nationality of the victims or the alleged offender and the offense has no substantial effect on interstate or foreign commerce.

''(e) DEFINITIONS.—As used in this section, the term—

''(1) 'serious bodily injury' has the meaning given that term in section 1365(g)(3) of this title;

''(2) 'national of the United States' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(3) 'state or government facility' includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of Government, the legislature or the judiciary or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

''(4) 'intergovernmental organization' includes international organization (as defined in section 1116(b)(5) of this title);

''(5) 'infrastructure facility' means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel, or communications;

''(6) 'place of public use' means those parts of any building, land, street, waterway, or other location that are accessible or open to members of the public, whether continuously, periodically, or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational, or similar place that is so accessible or open to the public;

''(7) 'public transportation system' means all facilities, conveyances, and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

''(8) 'explosive' has the meaning given in section 844(j) of this title insofar that it is designed, or has the capability, to cause death, serious bodily injury, or substantial material damage;

''(9) 'other lethal device' means any weapon or device that is designed or has the capability to cause death, serious bodily injury, or substantial damage to property through the release, dissemination, or impact of toxic chemicals, biological agents, or toxins (as those terms are defined in section 178 of this title) or radiation or radioactive material;

''(10) 'military forces of a state' means the armed forces of a state which are organized, trained, and equipped under its internal law for the primary purpose of national defense or security, and persons acting in support of those armed forces who are under their formal command, control, and responsibility;

''(11) 'armed conflict' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature; and

''(12) 'state' has the same meaning as that term has under international law, and includes all political subdivisions thereof.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by inserting after section 2332e the following:

''2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities.''.

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the applicability of any other Federal or State law which might pertain to the underlying conduct.

SEC. 103. EFFECTIVE DATE.

Section 102 shall take effect on the date that the International Convention for the Suppression of Terrorist Bombings enters into force for the United States.

TITLE II—SUPPRESSION OF THE FINANCING OF TERRORISM

SEC. 201. SHORT TITLE.

This title may be cited as the ''Suppression of the Financing of Terrorism Convention Implementation Act of 2001''.

SEC. 202. TERRORISM FINANCING STATUTE.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by adding at the end thereof the following new section:

''§ 2339C. Prohibitions against the financing of terrorism

''(a) OFFENSES.—

''(1) IN GENERAL.—Whoever, in a circumstance described in subsection (c), by any means, directly or indirectly, unlawfully and willfully provides or collects funds with the intention that such funds be used, or with the knowledge that such funds are to be used, in full or in part, in order to carry out—

''(A) an act which constitutes an offense within the scope of a treaty specified in subsection (e)(7), as implemented by the United States, or

''(B) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act,

shall be punished as prescribed in subsection (d)(1).

''(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(1).

''(3) RELATIONSHIP TO PREDICATE ACT.—For an act to constitute an offense set forth in this subsection, it shall not be necessary that the funds were actually used to carry out a predicate act.

''(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) in the following circumstances—

''(1) the offense takes place in the United States and—

''(A) a perpetrator was a national of another state or a stateless person;

''(B) on board a vessel flying the flag of another state or an aircraft which is registered under the laws of another state at the time the offense is committed;

''(C) on board an aircraft which is operated by the government of another state;

''(D) a perpetrator is found outside the United States;

''(E) was directed toward or resulted in the carrying out of a predicate act against—

''(i) a national of another state; or

''(ii) another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

''(F) was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel another state or international organization to do or abstain from doing any act; or

''(G) was directed toward or resulted in the carrying out of a predicate act—

''(i) outside the United States; or

''(ii) within the United States, and either the offense or the predicate act was conducted in, or the results thereof affected, interstate or foreign commerce;

''(2) the offense takes place outside the United States and—

''(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

''(B) a perpetrator is found in the United States; or

''(C) was directed toward or resulted in the carrying out of a predicate act against—

''(i) any property that is owned, leased, or used by the United States or by any department or agency of the United States, including an embassy or other diplomatic or consular premises of the United States;

''(ii) any person or property within the United States;

''(iii) any national of the United States or the property of such national; or

''(iv) any property of any legal entity organized under the laws of the United States, including any of its States, districts, commonwealths, territories, or possessions;

''(3) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed;

''(4) the offense is committed on board an aircraft which is operated by the United States; or

''(5) the offense was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel the United States to do or abstain from doing any act.

''(c) CONCEALMENT.—Whoever—

''(1)(A) is in the United States; or

''(B) is outside the United States and is a national of the United States or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions); and

''(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support, resources, or funds—

''(A) knowing or intending that the support or resources were provided in violation of section 2339B of this title; or

''(B) knowing or intending that any such funds or any proceeds of such funds were provided or collected in violation of subsection (a);

shall be punished as prescribed in subsection (d)(2).

''(d) PENALTIES.—

''(1) SUBSECTION (A).—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 20 years, or both.

''(2) SUBSECTION (C).—Whoever violates subsection (c) shall be fined under this title, imprisoned for not more than 10 years, or both.

''(e) DEFINITIONS.—In this section—

''(1) the term 'funds' means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including coin, currency, bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, and letters of credit;

''(2) the term 'government facility' means any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of a government, the legislature, or the judiciary, or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

''(3) the term 'proceeds' means any funds derived from or obtained, directly or indirectly, through the commission of an offense set forth in subsection (a);

''(4) the term 'provides' includes giving, donating, and transmitting;

''(5) the term 'collects' includes raising and receiving;

''(6) the term 'predicate act' means any act referred to in subparagraph (A) or (B) of subsection (a)(1);

''(7) the term 'treaty' means—

''(A) the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970;

''(B) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971;

''(C) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973;

''(D) the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979;

''(E) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on March 3, 1980;

''(F) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on February 24, 1988;

''(G) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988;

''(H) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988; or

''(I) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997;

''(8) the term 'intergovernmental organization' includes international organizations;

''(9) the term 'international organization' has the same meaning as in section 1116(b)(5) of this title;

''(10) the term 'armed conflict' does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature;

''(11) the term 'serious bodily injury' has the same meaning as in section 1365(g)(3) of this title;

''(12) the term 'national of the United States' has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

''(13) the term 'state' has the same meaning as that term has under international law, and includes all political subdivisions thereof.

''(f) CIVIL PENALTY.—In addition to any other criminal, civil, or administrative liability or penalty, any legal entity located within the United States or organized under the laws of the United States, including any of the laws of its States, districts, commonwealths, territories, or possessions, shall be liable to the United States for the sum of at least $10,000, if a person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end thereof the following:

''2339C. Prohibitions against the financing of terrorism.''.

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the scope or applicability of any other Federal or State law.

SEC. 203. EFFECTIVE DATE.

Except for paragraphs (1)(D) and (2)(B) of section 2339C(b) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of the Financing of Terrorism enters into force for the United States, and for the provisions of section 2339C(e)(7)(I) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of Terrorist Bombing enters into force for the United States, section 202 shall take effect on the date of enactment of this Act.

TITLE III—ANCILLARY MEASURES

SEC. 301. ANCILLARY MEASURES.

(a) WIRETAP PREDICATES.—Section 2516(1)(q) of title 18, United States Code, is amended by—

(1) inserting ''2332f,'' after ''2332d,''; and

(2) striking ''or 2339B'' and inserting ''2339B, or 2339C''.

(b) FEDERAL CRIME OF TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by—

(1) inserting ''2332f (relating to bombing of public places and facilities),'' after ''2332b (relating to acts of terrorism transcending national boundaries),''; and

(2) inserting ''2339C (relating to financing of terrorism,'' before ''or 2340A (relating to torture)''.

(c) PROVIDING MATERIAL SUPPORT TO TERRORISTS PREDICATE.—Section 2339A of title 18, United States Code, is amended by inserting ''2332f,'' before ''or 2340A''.

(d) FORFEITURE OF FUNDS, PROCEEDS, AND INSTRUMENTALITIES.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

''(H) Any property, real or personal, involved in a violation or attempted violation, or which constitutes or is derived from proceeds traceable to a violation, of section 2339C of this title.''.

SA 3849. Mr. REID (for Mr. WELLSTONE (for himself and Mr. GRAHAM)) proposed an amendment to the bill S. Res. 283, recognizing the successful completion of democratic elections in the Republic of Colombia; as follows:

On page 2, line 8, strike ''their continuing'' and insert ''encourages their''.

On page 3, line 18, strike ''to continue''.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON CHILDREN AND FAMILIES

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Children and Families, be authorized to meet for a hearing on ''Newborn Screening: Increasing Options and Awareness,'' during the session of the Senate on Friday, June 14, 2002, at 9:30 a.m.

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

PRIVILEGE OF THE FLOOR

Mr. LEAHY. Madam President, I ask unanimous consent that Steven Dettelbach, a detailee to the Judiciary Committee, be granted the privilege of the floor during consideration of the pending matter.

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

RECOGNIZING SUCCESSFUL COMPLETION OF DEMOCRATIC ELECTIONS IN THE REPUBLIC OF COLOMBIA

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to Calendar No. 420, S. Res. 283.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 283) recognizing the successful completion of democratic elections in the Republic of Colombia.

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

Mr. REID. Madam President, I ask unanimous consent that the Wellstone amendment, which is at the desk, be agreed to; that the resolution, as amended, be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution be printed in the RECORD.

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

The amendment (No. 3849) was agreed to, as follows:

On page 2, line 8, strike ''their continuing'' and insert ''encourages their''.

On page 3, line 18, strike ''to continue''.

The resolution (S. Res. 283), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 283

Whereas on May 26, 2002, the Republic of Colombia successfully completed democratic multiparty elections for President and Vice President;

Whereas these elections were deemed by international and domestic observers, including the United Nations and the Organization of American States, to be free, fair, and a legitimate nonviolent expression of the will of the people of the Republic of Colombia;

Whereas the United States has consistently supported the efforts of the people of the Republic of Colombia to strengthen and continue their democracy;

Whereas the Senate notes the courage of the millions of citizens of the Republic of Colombia that turned out to vote in order to freely and directly express their opinion; and

Whereas these open, fair, and democratic elections of the new President and Vice President of the Republic of Colombia, and the speedy posting of election results, should be broadly commended: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the government and the people of the Republic of Colombia for the successful completion of democratic elections held on May 26, 2002, for President and Vice President;

(2) congratulates President-elect Alvaro Uribe Velez and Vice President-elect Francisco Santos Calderon on their recent victory and encourages their strong commitment to democracy, national reconciliation, and reconstruction;

(3) congratulates Colombian President Andres Pastrana, who has been a strong ally of the United States, a long-standing supporter of peace process negotiations, and a builder of national unity in the Republic of Colombia, for his personal commitment to democracy;

(4) commends all Colombian citizens and political parties for their efforts to work together to take risks for democracy and to willfully pursue national reconciliation in order to cement a lasting peace and to strengthen democratic traditions in the Republic of Colombia;

(5) supports Colombian attempts to—

(A) ensure democracy, national reconciliation, and economic prosperity;

(B) support human rights and rule of law; and

(C) abide by all the essential elements of representative democracy as enshrined in the Inter-American Democratic Charter, Organization of American States, and United Nations principles;

(6) encourages the government and people of the Republic of Colombia to continue their struggle against the evils of narcotics and all forms of terrorism;

(7) encourages the government of the Republic of Colombia to promote—

(A) the professionalism of the Colombian Armed Forces and Colombian National Police; and

(B) judicial and legal reforms; and

(8) reaffirms that the United States is unequivocally committed to encouraging and supporting democracy, human rights, rule of law, and peaceful development in the Republic of Colombia and throughout the Americas.

ORDER FOR RECORD TO REMAIN OPEN UNTIL 1:30 P.M.

Mr. REID. Madam President, I ask unanimous consent that the RECORD remain open today until 1:30 p.m., notwithstanding the adjournment of the Senate, for the submission of statements and the introduction of legislation.

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

ORDERS FOR MONDAY, JUNE 17, AND TUESDAY, JUNE 18, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 2 p.m. on Monday, June 17; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the terrorism insurance bill; that when the Senate completes its business on Monday, it stand in adjournment until Tuesday, June 18, at 9:30 a.m.; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the terrorism insurance bill, with the time until 9:45 a.m. equally divided between the two managers of the bill for debate only, prior to the cloture vote on the terrorism insurance bill; further, that the live quorum with respect to the cloture motion be waived; that Senators have until 3 p.m. on Monday to file first-degree amendments and until 9:40 a.m. on Tuesday to file second-degree amendments; and that the Senate stand in recess on Tuesday, June 18, from 12:30 p.m. to 2:15 p.m. for the weekly party conferences.

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

ORDER FOR ADJOURNMENT

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the statements of Senator BYRD of West Virginia.

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

The Senator from West Virginia.

NATIONAL FLAG DAY

Mr. BYRD. Madam President, the first national observance of Flag Day occurred on June 14, 1877, when Congress ordered that the flag be flown over public buildings every June 14. June 14 officially became National Flag Day when President Truman signed an act of Congress on August 3, 1949. This year marks the 225th anniversary of the signing of the Flag Act resolution on June 14, 1777. What a historic day this is, June 14. The resolution was a model of simplicity in just 32 words:

Resolved that the flag of the United States be made of 13 stripes, alternative red and white; that the Union be 13 stars, white in a blue field, representing a new constellation.

Thus, was our national flag established. The last phrase ''representing a new constellation'' carries tremendous weight in just four words. The new United States of America was truly a new constellation in the firmament of nation states, and it blazes just as brightly today, 225 years later.

The poet, Joseph Rodman Drake, said it best, in the ''American Flag.''

When freedom from her mountain height
Unfurled her standard to the air,
She tore the azure robe of night,
And set the stars of glory there.
She mingled with its gorgeous dyes
The milky baldric of the skies.
Then from his mansion in the sun
She called her eagle bearer down,
And gave into his mighty hand
The symbol of her chosen land.

So our flag, our standard, is known throughout the world and beyond. No other flag flies on the face of the Moon. Our flag is instantly recognizable in every capital and in the emptiest quarters of the world. Even those who revile that flag, even those who would attack that flag in our Nation, recognize America's dominant, even preeminent, role in world affairs, symbolized by that flag.

There it stands. For over 200 years, the American flag has led the way. It took us west to California, a great State—one of whose Senators at this moment presides over the Senate with a degree of decorum, aplomb and dignity that is so rare as a day in June.

Yes, it took us west to California, north to Alaska. It led brave men to the North and South Poles. It has flown atop Mount Everest. It has been emblazoned in the sides of deep-diving submarines. It has led charges. It has held fast against terrible odds, and it has risen from the ashes to soar over Iwo Jima and the World Trade Towers. In every bleak hour, the snap and the crack of that mighty banner has rallied our courage and given us hope.

Without words, the American flag instantly sums up all that is best about our Nation: Our courage, our leadership, our generosity, our determination, our freedom.

That first Flag Act forever shaped our flag, but in the early years of the Nation, several variations existed for the Flag Act was not precise about the exact arrangement of the stars. As new States joined the Union, additional stripes, as well as additional stars, were added to the flag.

An act passed in 1794, for example, provided for 15 stripes and 15 stars after May 1795. By 1818, the flag was growing unwieldy, and a subsequent act of April 4, 1818, signed by President Monroe, provided for 13 stripes for the original 13 colonies and one star for each State to be added to the flag on the 4th of July following admission of each new State to the Union.

Almost a century later on June 24, 1912, which is the year the great Titanic went down—1,570 people lost their lives that year on April 15, 1912—

an Executive Order of President Taft established the proportion of the flag and set the arrangement of the stars in six horizontal rows of eight each, a single point of each star to be upward.

The continued expansion of the United States required further modification to the flag, and an Executive Order of President Eisenhower, dated January 3, 1959—I was here at that time—provided for the arrangement of the stars in seven rows of seven stars each staggered horizontally and vertically.

A quick schoolchild who knows his or her multiplication table, sometimes referred to as the times table, knows that 7 times 7 is 49.

With the addition of Hawaii to the Union in 1959, a further Executive Order on August 21, 1959, was required to establish the flag as we know it today with the stars in nine rows staggered horizontally, and 11 rows staggered vertically.

Will the flag change again as it has in the past? I do not know. But some things will never change. The love and respect that patriotic Americans have for this chosen symbol of our native land will never die, so long as the Government remains true to the spirit and the words of this Constitution, which I hold in my hand.

Equally immutable is the power of our flag to lift our hopes and our morale. The blossoming of flags across the Nation on and after September 11 has proved that Old Glory, Old Glory, Old Glory, the Stars and Stripes, by any name, is our own beloved flag. And there it stands in all its glory, beside the Presiding Officer of the Senate.

Madam President, hats off to the flag! That is the appropriate response to the sight of an American flag passing by. To my mind, no one has ever said it better than Henry Holcomb Bennett, in his stirring poem ''The Flag Goes By.'' Let it be my salute and birthday salutation to the American flag. Long my she wave!

THE FLAG GOES BY

Hats off!
Along the street there comes
A blare of bugles, a ruffle of drums,
A flash of color beneath the sky:
Hats off!
The flag is passing by!

Blue and crimson and white it shines,
Over the steel-tipped, ordered lines.
Hats off!
The colors before us fly;
But more than the flag is passing by.

Sea-fights and land-fights, grim and great,
Fought to make and save the State:
Weary marches and sinking ships;
Cheers of victory on dying lips;

Days of plenty and years of peace;
March of a strong land's swift increase;
Equal justice, right, and law,
Stately honor and reverend awe;

Sign of a nation, great and strong
To ward her people from foreign wrong:
Pride and glory and honor,—all
Live in the colors to stand or fall.

Hats off!
Along the street there comes
A blare of bugles, a ruffle of drums;
And loyal hearts are beating high:
Hats off!
The flag is passing by!

FATHER'S DAY

Mr. BYRD. Madam President, the Bible commands us to ''honor thy father and thy mother.'' Last month, we honored mothers. It was mother's day. This month, this Sunday, it is the fathers' turn. On that day, we honor men in their role as fathers, not as any of the many other titles they may wear: not for their accomplishments at work, though that is how many men define themselves; not for their accomplishments at home that are not family related, such as in their role as gardeners or home builders or mechanics; but as fathers.

Fatherhood requires no special training, no advanced degree, but it does require a long commitment and a considerable level of effort. It is not always easy. It requires a certain warmth. It is not for the faint-hearted or the self-centered. Though it has its hero moments, it is not a popularity contest. As a father, a man will hunt buggers, as they used to say; buggers or monsters in closets on dark nights, investigate all strange sounds, and kill a lot of bugs and spiders. Just ask any father. He will be expected to know how to make volcanoes out of plaster of Paris and 2-liter soda bottles. He will become the instant authority in all manner of arcane subjects like sports rules. He will become the ultimate authority in all matters of discipline. Father will set, and enforce, limits and intimidate all prospective suitors of his daughters. He becomes the man by whom all other men are judged. It is difficult to over-estimate the importance of a father figure.

If you ask a child what he or she likes best about their father, they likely will not mention the father's job. They won't comment on how nicely he mows the lawn, or how the car gleams, the chromium shines, those fenders which mirror themselves. It is more likely to be that dad makes funny faces—yes, that is what they will comment on, dad makes funny faces—plays catch, makes waffles on Saturday mornings, or gives pony rides on his shoulders. Maybe dad does a great cannonball jump into the pool, maybe he cooks the best hamburgers on the grill, or maybe he takes his kids fishing. It is those times that a father is most engaged with his children that makes a moment special to a child. As we grow older, we can appreciate the effort that fathers put into their jobs, so that they might provide for their families, but that appreciation only sweetens the treasured times when dad plays with his kids.

I have spoken many times about my dad. He was not my biological father. But he was my biological father's sister's husband. He and my aunt raised me as my mother died when I was a year old, a little less than a year old, in the great influenza epidemic of 1918.

I was just reading last night a Senate hearing by the Appropriations Committee on a resolution appropriating $1 million to fight influenza in 1918. That hearing was conducted in September of 1918. Less than 2 months later, my mother died of that influenza.

So she asked, per her wish, that my father's sister—he had eight or nine sisters, two or three brothers; there were large families in those days—my mother's wish was that one of my father's sisters who had married Titus Dalton Byrd take me, the baby. I had three older brothers and a sister, but take me, the baby, and rear that baby. And so because of a mother's wish, my uncle, Titus Dalton Byrd, and his wife, my aunt, Vlurma Byrd, took me to West Virginia from North Carolina, and there in the coal fields of West Virginia they reared me. They took care of me. They loved me. My memories are of that tall man, with a red mustache and the black hair, who went to the mines every day and worked hard for me and for his wife, my aunt—the only mother I ever knew. And he was the only father I ever knew.

As a matter of fact, I didn't know that he wasn't my father until I was a high school senior. In that year, 1934, this man whom I called my dad took me and sat me down and told me the story of how the influenza had taken away my angel mother and how he and his wife, whom I knew as my mom, had taken me as an infant, just a few days under 1 year old, and raised me.

And I can remember him, that old coal miner, honest as the day is long. He had no enemies. When he died, he didn't owe any man a penny. He was honest, as I say, as the day is long. He worked hard in the bowels of the Earth.

I never heard him use God's name in vain in all the years that I was with him—never. I never heard him talk about his neighbor. I never saw him sit down at the table and grumble at whatever was on the table, whatever it was—never, ever a grumble.

As I say, I didn't know for a long time that Titus Dalton Byrd was not my father. I called him Pap. He was my dad.

He was a quiet, hard-working man, worn down by the strenuous life of a coal miner in the days before the mechanized and much safer practices of modern mining. He would come home—I see the coal dust sometimes in his eyes. I see him coming down the railroad tracks. I see him coming home from a hard day's work in the mines.

Many times in those mines the roof was so low that the miners had to walk on their knees. They had knee pads and they would walk on their knees, sometimes working in waterholes, lifting that slate and lifting the shovels of coal and heaving them into the coal car. They worked hard.

There was little hope for them, not much to look forward to in that coal miner's life. Day after day, day after day, the same old grind, lifting that

coal, shoveling that coal into the coal car.

I would see him coming down the railroad tracks from afar. I would run to meet him. As I came to him, I could see that tall man with the red mustache and the black hair set down his dinner pail on a crosstie. As I came near, he would lift off the lid from that dinner pail. And when I came up to him, he would reach into that dinner pail and bring out a cake that my mom had bought, a 5-cent cake—a 5-cent cake from the company store. He had taken it to work. He had taken it to eat for himself, but he didn't eat it. He always saved the cake for me. He always saved the cake for me.

What a man that was. I have met Presidents and Governors and Senators, Members of Congress and Kings and Shahs and Ambassadors—all the great people of the Earth. In my time as majority leader, I met with the Shah of Iran, the old Biblical country of Persia, just a few weeks before he left Iran forever. I met with him in his palace, just he and I and his wife and my wife.

I met with the King of Saudi Arabia, the great royal family of Saudi Arabia. I met with President Sadat, one on one. I met with Prime Minister Begin of Israel; President Assad of Syria; the King of Jordan. I knew the King's father. I met with Vice Premiere Deng, the real leader in Communist China. I met with President Brezhnev, down in the Crimea, just he and I sitting across the table, he with one person who was an interpreter, I with an interpreter and one assistant, that was all, sitting down, in the Crimea. Brezhnev, he reminded me of an old county commissioner back in West Virginia. I bet there are some of those county commissioners in Missouri, just oldtimers, people of the soil, people of the Earth.

So I met with these people: Margaret Thatcher, the King of Spain, I met with all this great array of world leaders.

Who was I? I was a country boy from southern West Virginia, a coal miner's son. But the greatest of all these people that I have met on Earth, one of the greatest—I knew he was great because I lived with him—the greatest was my old coal miner dad, coal miner dad.

Well, I would walk along with him, kind of feeling grown up, you see. Here I was, a little old boy. He saved me a cake and then I would walk on down to the house with him. I felt pretty grown up, walking with my dad.

So he always saved the cake for me. He never forgot to save me something. He would always give it to me with one of his quiet smiles. Those short walks were a special time just for us, and the memory of them gives me a warm feeling to this day.

I have no doubt that there is a Heaven. I have no doubt that in that Heaven right today is that mother who died on the evening before November 11, 1918. And because of her wish, I am here today. If it hadn't been for her wish, that I be taken by Titus Dalton Byrd and his wife, I probably would have grown up in North Carolina. It is hard to tell what I might have amounted to but because of a mother's wish.

My dad was the one who gave me pencils and paper, drawing books and watercolors at Christmas. He didn't give me a cowboy suit or a cap buster. He gave me drawing tablets and watercolors, urged me to learn how to draw and how to write and how to read. He was the one who bought a violin for me and encouraged me to play.

The fiddle was a big gift in a day and place where there wasn't much money for frills. I got a lot of enjoyment out of that fiddle playing. And because of that fiddle, I really had a political advantage, and I was advised by a Republican—as I told some of these fine pages here, earlier today—a Republican lawyer advised me to take that fiddle. He said: You take that fiddle, BOB, and everywhere you go you make that fiddle your briefcase. You play a tune or two and then you put that fiddle down and you give them a straight story on why you want to go to the West Virginia Legislature. And quote a little poem or two, but they will remember you because of that fiddle. Nobody else who is running can play a fiddle. They will remember you not because of the fiddle but because it got their attention and caused them to remember you. But it is what you say that really counts.

I ran my first campaign for elected office. I was an underdog. I was very young. I was unknown. I was untested. But my fiddle playing at campaign stops got people's attention and left them with a memory associated with my name. They were willing to listen to me talk as the price for getting to hear me play.

So in that way you could say that my dad helped me to win an election—my first election. He did, because he bought that fiddle for me. Without that fiddle, I wouldn't have won that first campaign, and probably wouldn't have been reelected when I ran for the West Virginia Senate. I had to go into additional counties, and I took the fiddle there. When I ran for the House of Representatives, there were additional counties. I took the fiddle around.

So that was what my dad gave me—that fiddle. It was because of his and my mother's wish, you see, that I am here today. It is how far I was influenced.

My dad also encouraged me in school. He did not want me to follow him into the mines. He knew the dangers too well. He had seen those dangers up close. He had seen too many of his fellow coal miners killed. He had seen the men on the floor of the house with a piece of canvass stretched over them who had been run over by a motor, or executed by a fallen cable, or killed by falling slate. He had seen those dangers up close. So he pushed me to do well in school. He wanted me to do well in school. He encouraged me. He always wanted to see that report card. And there was one category on the report card entitled ''deportment.'' He always looked at that deportment. How well did Robert do in school? How well does he mind the teacher? Does he do what the teacher says? Is he a rowdy or is he not? He always watched that.

From him and from my aunt, I developed a love of learning that has lasted my whole life.

I was the first in all of my family—going back many generations to William Sayle who settled in Virginia in 1657 on the banks of the Rappahannock River. He was the ancient forbear of my father, my real father, my biological father—I was the first in my family, going all the way back to England, to go to college.

I am proud to say that my children and my children's children have excelled in challenging academic fields. My grandson, Frederick, is a physicist, following in his father's footsteps. I may be biased, but at the rate my family is going I wouldn't be surprised if one of my great-granddaughters won a Nobel Prize, thanks to the academic legacy inspired by my dad who himself had practically little or no schooling whatsoever.

I know he must look down and be proud of all of us, just as we strive to make him proud.

I have another grandson who is a physicist also, Darius. I have a grandson who is on one of the appropriations committees as a staff person. I have a granddaughter who works in the Senate. I have a granddaughter who lives in Leesburg. She is a wonderful granddaughter. These daughters of mine and the grandchildren and now three great-grandchildren—three are great-granddaughters—I have no doubt that they will win some Nobel Prize or something even more worthy.

I know that I am not alone today in cherishing the memories of my dad—the man who raised me. Nor am I alone in seeing the reach that a father's encouragement can have through many generations who cannot feel the warm touch of that long-gone father's smile. History books are replete with the stories of famous men and women who owed their start to some early encouragement from their fathers or their mothers.

Benjamin West, an early American painter, said, as I understand it, that he owed his becoming a great painter to his mother—his angel mother—who, when he was a little infant, a little child, came to her with his child's drawings of flowers and birds and showed his mother. She would take him upon her knee and say, Benjamin, you will grow up to be a great painter. And Benjamin West grew up to be a great painter. He said he was made a great painter by a mother's kiss. That is the way it is.

It is what we celebrate on Father's Day. It is not the work, it is not the accomplishments, it is not the titles, it

isn't the bank account that bring children home to visit with their father and share a meal with him or send him a funny yet sentimental card. The moments of a father's love made manifest—these are the pieces of gold in memory's treasure chest. Those moments of joy, of laughter, of mutual pride at being in the same family make the labors of the week drop away like a heavy winter coat in the warm rays of the summer sun.

For myself, of course, and also for all fathers, I hope that this Sunday is filled with family and with laughter and with warm feelings. Let us all look upon, think upon, and remember our fathers and our father's father, and glory in their greatest and most lasting achievement—happy families.

Let us not forget that Biblical admonition, honor thy father and thy mother. We only have one of each. That is it. That is the sum total—only one.

I close with the words of an unknown who wrote the ''Little Chap Who Follows Me.''

I am sure that my dad, although he never had the luxury of sitting in a schoolroom reading that poem, the ''Little Chap Who Follows Me,'' certainly in his life typified that poet's thought as a father who thinks of the ''Little Chap Who Follows Me.''

Many of the poems, like these simple little poems, have a message:

A careful man I ought to be;
A little fellow follows me;
I do not dare to go astray
For fear he'll go the self-same way.
I must not madly step aside,
Where pleasure's paths are smooth and wide,
And join in wine's red revelry
A little fellow follows me.

I cannot once escape his eyes;
Whate'er he sees me do, he tries—
Like me, he says, he's going to be;
The little chap who follows me.

He thinks that I am good and fine,
Believes in every word of mine;
The base in me he must not see,
The little chap who follows me.

I must remember as I go,
Through summer's sun and winter's snow,
I'm building for the years to be,
A little fellow follows me.

Madam President, I yield the floor. 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. BYRD. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

ADJOURNMENT UNTIL MONDAY, JUNE 17, 2002, AT 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 2 o'clock p.m., Monday, June 17, 2002.

Thereupon, the Senate, at 12:47 p.m., adjourned until Monday, June 17, 2002, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate June 14, 2002:

FARM CREDIT ADMINISTRATION

NANCY C. PELLETT, OF IOWA, TO BE A MEMBER OF THE FARM CREDIT ADMINISTRATION BOARD, FARM CREDIT ADMINISTRATION FOR A TERM EXPIRING MAY 31, 2008, VICE ANN JORGENSEN, TERM EXPIRED.

CORPORATION FOR PUBLIC BROADCASTING

CHERYL FELDMAN HALPERN, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2008, VICE HEIDI H. SCHULMAN, TERM EXPIRED.

DEPARTMENT OF STATE

J. ANTHONY HOLMES, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BURKINA FASO.

AURELIA E. BRAZEAL, OF GEORGIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

W. SCOTT RAILTON, OF VIRGINIA, TO BE A MEMBER OF THE OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION FOR A TERM EXPIRING APRIL 27, 2007, VICE GARY L. VISSCHER, TERM EXPIRED.

WITHDRAWAL

Executive message transmitted by the President to the Senate on June 14, 2002, withdrawing from further Senate consideration the following nomination:

CHERYL FELDMAN HALPERN, OF NEW JERSEY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 31, 2004, WHICH WAS SENT TO THE SENATE ON NOVEMBER 9, 2001.

EXTENSIONS OF REMARKS

IN HONOR OF PETER RINALDI AND THE ENGINEERS OF THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. NADLER. Mr. Speaker, there were many heroes on September 11th, and many more in the months that have followed. I rise today to pay tribute to the engineers of the Port Authority of New York and New Jersey, each of whom could tell you a different story about the difficult days and arduous work following September 11th. I would like to tell you a little about one Port Authority engineer, Peter Rinaldi, who joined his fellow New Yorkers in the tremendous rescue and recovery effort at Ground Zero. The following excerpt is from ''American Ground: Unbuilding the World Trade Center,'' by William Langewiesche, published in the July/August 2002 edition of Atlantic Monthly.

At age fifty-two, Rinaldi was an inconspicuous olive-skinned man with graying hair and a moustache, who observed the world through oversized glasses and had a quirky way of suddenly raising his eyebrows, not in surprise but as a prompt or in suggestion. He had grown up in the Bronx as the son of a New York cop, had gone to college there, and had married a girl he had met in high school. Though he and his wife had moved to the suburbs of Westchester County to raise their three sons, he had never cut his connection to the city, or quite shed his native accent. For twenty-eight years he had commuted to the World Trade Center, to offices in the North Tower, where he worked for the Port Authority of New York and New Jersey, deep within its paternal embrace and completely secure in his existence. There was an early warning in the terrorist bombing of 1993, which caught him in an elevator. Nonetheless, he was wholly unprepared for the destruction that followed in 2001. During the days after the attack, when to New York City officials the Port Authority seemed to have disappeared, it was hunkered down across the river in its New Jersey offices, suffering through a collective emptiness so severe that people themselves felt hollowed out. Peter Rinaldi felt it too, though he was far away at the time of the attack, vacationing with his wife, Audrey, on the Outer Banks of North Carolina.

Back in New York . . . Rinaldi was assigned to New York City's recovery team . . . [and] given the job of supervising the consultants who had been brought in for the specialized belowground engineering. The underground, beneath the pile, was a wilderness of ruins, a short walk from the city but as far removed from life there as any place could be. It burned until January, and because it contained voids and weakened structures, it collapsed progressively until the spring. The job of mapping the chaos fell to a small team of about six engineers who did some of the riskiest work at the site, climbing through the crevices of a strange and unstable netherworld, calmly charting its conditions, and returning without complaint after major collapses had occurred.

By mid-November only one important underground area remained to be explored—a place people called ''the final frontier,'' located deep under the center of the ruins, at the foot of the former North Tower. It was the main chiller plant, one of the world's largest air-conditioning facilities—a two-acre chamber three stories high that contained seven interconnected refrigeration units, each the size of a locomotive and capable of holding up to 24,000 pounds of dangerous Freon gas.

With the huge quantities potentially involved here, a sudden leak would fill the voids underground and spread across the surface of the pile, suffocating perhaps hundreds of workers caught out on the rough terrain and unable to move fast. To make matters worse, if the Freon cloud came into contact with open flames, of which there were plenty here, it would turn into airborne forms of hydrochloric and hydrofluoric acids and also phosgene gas, related to the mustard gas used during World War 1. Then it would go drifting. People accepted the danger. The standard advice, ''Just run like hell,'' was delivered with a little shrug. Everyone knew that if the Freon came hunting for you at the center of the pile, you would succumb.

Of all the people setting out now for the chiller plant, twenty men redefined by these ruins, the one who would have the greatest influence on the unfolding story was an obscure engineer, a lifelong New Yorker named Peter Rinaldi.

For twenty-eight years the World Trade Center was a second home to Peter Rinaldi. After its destruction, he and his fellow Port Authority employees worked ''seven days a week, often fifteen hours a day'' to make sure that those involved in the recovery effort would be safe, and to restore needed services, such as subway and commuter train service, to those returning to live and work in lower Manhattan. His leadership in the days following September 11th took him, on that day in November, into the debris of the World Trade Center, where it was determined that the Freon had vented and the recovery work could continue in relative safety.

Today, nine months after that horrible day, as we celebrate the lives of those we have lost and commemorate their heroism and bravery, we thank those who have given so much of themselves to the recovery of our great city. I would like to extend my thanks to the employees of the Port Authority of New York and New Jersey, each of whom has come to embody the spirit of public service to the city they have served so admirably.

U.S.-RUSSIA RELATIONS

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. SMITH of New Jersey. Mr. Speaker, President Bush has returned from a successful summit in Moscow. As the Cold War recedes more and more into memory, our relations with Russia continue to improve, as they should. Russia has made a significant contribution to the struggle against terrorism since the attacks on the United States last September. While there remain serious differences in the area of human rights, foreign policy, and economics, we should welcome President Putin's ''turn to the West'' and encourage Russia to further integrate into an international community of mutual security, free trade, and democratic structures.

Nevertheless, over this summit banquet of warm words about the ''new strategic relationship'' looms a ''Banquo's Ghost'' of tragic and monumental proportions.

I refer to the war in Chechnya—the subject of a recent hearing of the Commission on Security and Cooperation in Europe, which I co-chair—which continues to wreak havoc and death on combatants and non-combatants alike. The brutality of the so-called ''anti-terrorist operation'' of the Russian military has been amply documented by reputable Russian and international organizations. Bloody military ''sweeps'' of civilian areas, bestial ''filtration camps'' and ''holding pits'' have become hallmarks of what passes for Moscow's military strategy.

One month ago, the Helsinki Commission heard chilling testimony from Ms. Aset Chadaeva, a nurse from Chechnya who resided in a community near Grozny, Chechnya's capital. Ms. Chadaeva described an event in February 2000, when the Russian military carried out one of its most notorious ''anti-terrorists'' operations:

> Young Chechen men living in Chechnya today have two choices: to wage war or to wait for Russian soldiers to arrest or kill them. All three of my brothers were illegally detained by Russian servicemen. One of my brothers—officially classified as disabled because of his poor eyesight—was severely beaten by Russian soldiers in my presence. When I asked the soldiers why they were arresting him, they told me: ''He's a Chechen! That's reason enough!'' I treated women who had been raped by Russian soldiers, and I've also seen the bodies of women who had been killed after being raped. During both wars, I buried many dead. Bodies were left lying in the streets. I, my brothers, and my neighbors collected them so they wouldn't be eaten by dogs.

In February 2001, the remains of over fifty persons were found in a mass grave in a village located less than a mile from the Russian military headquarters in Chechnya. Russian authorities attribute their deaths to Chechen partisans.

In 2000 and 2001, the UN Commission on Human Rights in Geneva condemned the widespread violence against civilians and alleged violations of human rights and humanitarian law'' by Russian forces. I would note that even Chechen officials who have sided with Moscow in the conflict with the secessionist movement have criticized the reign of terror created by the Russian military in Chechnya. Unfortunately, efforts to have a resolution passed this year at the Human

Rights Commission failed with allies and friends casting the swing votes either in opposition to the resolution offered by the European Union or abstaining. The United States does not currently have a seat on the Commission and thus was not voting.

A Human Rights Watch report of February 2002 entitled ''Swept Under: Torture, Forced Disappearances, and Extrajudicial Killings During Sweep Operations in Chechnya'' describes the ''sweeps'' conducted by the Russian military in the summer of 2001:

> Troops rounded up several thousand Chechens, mostly without any form of due process, and took them to temporary military bases in or near the villages. According to eyewitnesses, soldiers extrajudicially executed at least eleven detainees, and at least two detainees ''disappeared'' in detention. . . . Twelve former detainees [gave] detailed testimony of torture and ill-treatment, including electric shocks, severe beatings, and being forced to remain in ''stress position.'' Eyewitnesses also gave testimony about widespread extortion, looting, and destruction of civilian property.

Eventually, Russia's top military officer admitted that the troops had committed ''widespread crimes.'' International revulsion against the conduct of these ''sweeps'' was so great that in March of this year, the Russian military introduced ''Order No. 80,'' according to which ''sweeps'' are to be conducted ''only in the presence of procurators but also of the local authorities and the organs of internal affairs,'' and local authorities are to be provided with a list of detainees. However, reports by human rights groups indicate that even these minimal requirements are not being observed on the ground. In a rare admission, the military commander in Chechnya has acknowledged that innocent people have disappeared during the ''sweeps.''

In October 2000, Human Rights Watch issued ''Welcome to Hell,'' a vivid and horrifying description of arbitrary detention, torture and extortion in Chechnya. As described in the report, groups of Chechen non-combatants, usually men of military age, are detained on suspicion of participation or collaboration with Chechen guerrillas, and subjected to brutal and humiliating interrogations. This is the description of the procedure followed at the infamous Chernokozovo prison:

> Detainees at Chernokozovo were beaten both during interrogation and during nighttime sessions when guards utterly ran amok. During interrogation, detainees were forced to crawl on the ground and were beaten so severely that some sustained broken ribs and injuries to their kidneys, liver, testicles, and feet. Some were also tortured with electric shocks.

In many cases, a detainee was released only after relatives or a loved one paid a bribe to his captors. In other cases, the detainee simply disappeared. Chechnya is filled today with desperate souls seeking word of their missing loved ones who are presumed dead.

Even if the Russian Government manages to create a graveyard in Chechnya and call it peace, it will be a Pyrrhic victory, sowing the seeds of social disintegration in Russia. The prominent Russian joumalist and military analyst Pavel Felgenhauer has written, ''The complete impunity of the military leaders is leading to the moral decay of their subordinates.'' He concludes that ''the war in Chechnya is serving to destroy both the armed forces and the [Russian] state.''

Mr. Speaker, these comments should not be seen as an endorsement of Chechen separatism, and we must frankly admit that some Chechen partisans have been linked with international terrorist organizations who see Chechnya as a staging ground for ''jihad'' against Moscow. I am fully aware of the depredations visited upon the people of the North Caucasus by marauding kidnappers, highjackers and terrorists. According to press reports, some Chechen guerrillas have executed ''traitors'' who work for the pro-Moscow administration in Chechnya.

But this does not absolve the Government of Russia from having to live up to basic standards of conduct such as the Geneva Conventions and the Code of Conduct of the Organization for Security and Cooperation in Europe. ''Anti-terrorist operations'' and ''territorial integrity'' are not synonymous with waging total and barbaric war against one's own citizens.

How many more bodies will show up in mass graves? How many young Russian soldiers' bodies will be sent homes to grieving parents in Russia? How many more displaced persons will spend another winter in tents?

The Administration has called upon Chechnya's leadership to ''immediately and unconditionally cut all contacts with international terrorist groups, while calling for ''accountability for [human rights] violations on all sides,'' and a political solution to the conflict. I urge the Administration to continue to use every appropriate opportunity to condemn human rights violations in Chechnya, and impress upon Moscow the need for a just political solution. I trust that the return of the United States to the UN Human Rights Committee in Geneva will afford one more such opportunity.

The last leader of the Soviet Union, Mikhail Gorbachev, once called Afghanistan a ''bleeding wound.'' Chechnya is now the ''bleeding wound'' for the Russian Federation. I say this as someone who wishes Russia and the people of Russia to prosper. The time for a cease-fire and serious negoitiations is at hand.

HONORING THE MEMORY OF FALLEN HEROES

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. KIRK. Mr. Speaker, on Dec. 16, 1944, on a snowy battlefield known as ''Hill 88'' near the Belgian border with Germany, the Battle of the Bulge began. As the German army advanced, heavy casualties were sustained by the U.S. Army's 99th Division, Company C, forcing surviving G.I.'s to leave fallen comrades behind in shallow graves with only dog tags, sticks, and weapons to mark them. These soldiers were lost, but not forgotten, and after 57 years, six of the more than thirty soldiers designated as Missing in Action after the battle will be given the honor they deserve after sacrificing their lives for their country.

I want to recognize the extraordinary effort by veterans from the battle and a group of Belgian nationals, who worked together to find the remains of six MIA's. This search has spanned across several generations. In September of 1988, two young Belgians, Jean-Louis Seel and Philippe Speder, were digging in the Ardennes Forest when they discovered the remains of Private First Class Alphonse Sito of Baltimore, Maryland. This prompted William Warnock to compile a list of the 33 missing soldiers, which was published in the 99th Division Association news letter by Dick Byers, a seminal member of the 99th Division. Based on mail and data they received, Byers and Warnock prepared a map pinpointing the location where they believed the remains of Second Lieutenant L.O. Holloway could be found. After a two-day search in November 1990, Seel and Speder were successful in recovering Holloway's remains. His remains were returned to Texas at the Fort Sam Houston National Cemetery in September 1991.

The Holloway case convinced Vernon Swanson of Deerfield, Illinois, that the remains of his ''foxhole buddy,'' Jack Beckwith, could be found. Swanson enlisted the cooperation of a wartime cohort, Byron Witmarsh, and set about the task of recovering the remains of their fallen comrades. Hoping to find Beckwith's remains, Swanson and Witmarsh joined forces with Byers, Seel, Speder, and Warnock in 1991. The group pored over records in the National Archives, the National Personnel Records Center, and the U.S. Army History Institute. An old map of the grave sites was found in Beckwith's Army file, however, an aerial photograph discovered in the National Archives proved to be the critical piece of information. It showed ''88 Hill'' in December 1944, from which Bill Warnock identified a grouping of trees where the grave sites were. Warnock then transferred the locations of the graves to modern topographic maps and the Belgians were on the hunt again for the remains. In April 2001, Seel decided to search an area that, to his amazement, turned up a dog tag which marked the grave site of Private David A. Read. Seel returned with Speder and two other members of the Belgian search team, Marc Marique and Luc Menestrey. On April 17, the remains of Jack Beckwith, Saul Kokotovich, and David Read were found. Over the next two days the Belgian search team labored to exhume the remains. Each of the dead was found with a single dog tag around his neck, rotted clothing, and boots. David Roth of the U.S. Army Mortuary Affairs activity was contacted and took possession of the remains to complete the official identification process.

Vernon Swanson vowed to someday return to recover the remains of his friend, Private Jack Beckwith. Over the years he made many inquiries to fellow veterans of the battle, organized an international search team, and succeeded in finding lost soldiers in a forgotten corner of a vast woodland in Belgium. During the months of June and July the remains of all six comrades will find their final resting place in a cemetery of their families' choice. On June 8, 2002, burial ceremonies were held in Ada, Oklahoma for Private First Class Ewing Fidler. On Saturday, June 22, 2002 the remains of Private First Class Jack Beckwith, Private First Class Saul Kokotovich, and Sergeant Frederick Zimmerman will be laid to rest in the American Military Cemetery in Henri Chapelle, Belgium. Private First Class David Read will be buried in Arlington National Cemetery on July 18. Private First Class Stanley Larson will be returned to Rochelle, Illinois on July 22. I want to offer my thanks to the Department of Casualty and Mortuary Affairs and

the American Battle Monuments Commission for their efforts, without which none of this would have been possible. I also want to honor the search team of the U.S. Army's 99th Infantry Division and the Belgian ''Diggers'' for their dedication and hard work in honoring the memory of these brave soldiers who made the ultimate sacrifice in the defense of the freedoms we enjoy. Above all, I want to thank Vernon Swanson for his determination not to leave his brothers-in-arms behind on the battlefield. His service and that of his comrades are the reason why we live in a free society today.

A TRIBUTE TO MR. WILLIAM F. GREEN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. TOWNS. Mr. Speaker, I rise in honor of Mr. William F. Green for his commitment to health care.

Mr. William F. Green has spent almost 35 years of creating, implementing and enhancing medical programs and services for the underserved. After a distinguished tour of duty in the United States Marine Corps, Mr. Green pursued an undergraduate degree in sociology. Recognizing the need to strengthen and integrate health care and business systems, he later obtained Masters Degrees in both business and social work.

He has also held many Executive Health Care Administrator positions in various hospitals including St. Mary's Hospital, St. John's Hospital, and the Interfaith Medical Center. He was named Vice-President of Ambulatory Services at Wyckoff Heights Medical Center and later took the position of Vice-President of External Affairs and Government Relations.

Mr. Green is a member of many professional associations such as the American College of Hospital Administrators, National Association of Black Health Executives, and the Royal College of Health Administrators.

Mr. Speaker, Mr. William F. Green is devoted to improving community health and advancing the health profession. I hope that all my colleagues will join me in honoring this remarkable person.

TRIBUTE TO DAVID MARCH

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. McKEON. Mr. Speaker, I rise in support of a resolution to honor the remarkable life of David March, a Los Angeles County Deputy Sheriff killed in the line of duty.

On May 1, 2002, during a seemingly routine traffic stop, Deputy March, a 33-year-old husband and stepfather was shot and killed.

Deputy March's life is that of a true American Hero. Even as a high school football and baseball star, his life long dream was to serve his fellow man through a career in law enforcement.

During his seven years of service, Deputy March garnered the admiration and respect of his superiors and subordinates.

A week before he was shot, Deputy March wrote these words to a friend in the Department.

I feel I give a full days work when I'm here. My contacts with the public are positive. Most of all, I have learned to enjoy what I am doing. My goals are simple. I will always be painfully honest, work as hard as I can, learn as much as I can and hopefully make a difference in people's lives.

May the tragedy of David March's death never overshadow the glory of his life.

PERSONAL EXPLANATION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. MENENDEZ. Mr. Speaker, because of duties I was required to perform, pursuant to State statute, as Democratic county chairman in my district, I was unable to be present for votes after 1:30 p.m. on June 12, 2002.

On rollcall No. 223, had I been present, I would have voted ''yes.''

On rollcall No. 224, had I been present, I would have voted ''yes.''

On rollcall No. 225, had I been present, I would have voted ''no.''

REFUGEES FIRST

HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Ms. SCHAKOWSKY. Mr. Speaker, I recently read an op-ed in the Israeli paper, Ha'aretz, entitled Refugees First written by Dr. Avi Becker, the Secretary-General of the World Jewish Congress. In the article, Dr. Becker discusses the role of the United Nations Relief and Works Agency, UNRWA, for Palestinian refugees. The article brings to light how these refugee camps are coming under control of the Palestinian Liberation Organization and being converted to ''military bastions'', a strict violation of U.N. policy. The Palestinian refugees of the UNRWA refugee camps are suffering and have not been offered a rehabilitation program to rebuild their communities outside these camps. The United Nations and the international community must reform their current policies on these camps and formulate a new humanitarian vision that will benefit the Palestinians within these camps and elsewhere. I strongly recommend that my colleagues read the following article.

REFUGEES FIRST

It is revealing that only after the Arab/UN abortive attempt to send a fact-finding committee to Jenin, questions have been raised in the international media about the role of the UN Relief and Works Agency for Palestinian Refugees (UNRWA). Several articles in the American media have asked bluntly: ''What exactly is the UN doing in its refugee camps (with our money)?'' The United States today finances more than one-fourth of UNRWA's operations, about $90 million, annually. Some Arab oil countries give together less than $5 million annually, while Iraq and Libya pledge nothing.

Since the current mandate of UNRWA runs through June 30, 2002, it is essential to review and reassess the role of this UN agency. UNRWA, according to its self-proclaimed mission described in its Web site, does not aim to solve the problem of the refugees. While all of the world's refugees are dealt with by the UN High Commissioner of Refugees (UNHCR) who is charged with working for their ultimate rehabilitation, UNRWA, which had existed for more than 50 years, was never meant to actually solve the problem of the Palestinian refugees but rather to perpetuate it.

Under the auspices of UNRWA, some major principles of international law are violated. In 1998, the UN Security Council affirmed the ''unacceptability of using refugee camps and other persons in refugee camps . . . to achieve military purposes,'' a commitment which was immediately confirmed by UN Secretary General Kofi Annan in a 1998 report to the Security Council, in which he urged that ''[r]efugee camps. . . be kept free of any military presence or equipment, . . . and that the neutrality of the camps . . . [be] scrupulously maintained.'' It is therefore important to apply the same principles in the case of the UNRWA camps.

In 1976, the Lebanese ambassador to the UN Edward Ghorra warned the international community of the fact that UNRWA camps in Lebanon had been taken over by terrorist organizations. In his letter to the then UN secretary-general, Kurt Waldheim, the ambassador said that ''the Palestinians acted as if they were a state within the State of Lebanon . . . . They transformed most, if not all, of the refugee camps into military bastions . . . in the heart of our commercial and industrial centers, and in the vicinity of large civilian conglomerations.'' (The letter was published as an official UN document.)

In reality, UNRWA camps, with 17,000 employees, had come under PLO control, and under the UN flag they were functioning, for all intents and purposes, as military camps. In October of 1982, UNRWA released a most comprehensive report, which related in great detail that its educational institute at Sibleen, near Beirut, was in reality a military training base for PLO fighters, with extensive military installations and arms warehouses.

The forthcoming renewal of UNRWA's mandate must be used to put pressure on the UN agency to begin a reform plan which will prepare the ground for its future integration with the UN High Commission on Refugees. Thus, in preparation for the decision on the mandate renewal, UNRWA must be asked to develop reliable and viable policies on two fronts: to enforce the ban, required under both international law and UN policy, against using their camps for military and terrorist purposes, and to draft a rehabilitation program which will build new neighborhoods for refugees outside the camps, wherever they are located.

The tragedy of the Palestinians cannot be addressed by existing UN policies and practices. Any comprehensive peace plan dealing with Israeli withdrawal and new borders with a Palestinian state must include as a major component a thorough political and humanitarian solution for the Palestinian refugees. While the borders and security arrangements are obviously issues that need to be concluded, the refugees' situation must be addressed first, and a realistic practical solution must be developed which is based on dealing with the real conditions of their daily lives. The issue of the Palestinian ''right of return'' cannot be left in limbo, looming over every peace initiative, including the most recent Saudi one, which did not address the refugee issue clearly.

Polls taken in Israel in recent days show that a significant majority of the Israeli public is prepared to accept the establishment of a Palestinian state, the dismantling

of settlements and the making of far-reaching compromises for a sincere peace. As stated by President Bill Clinton on July 28, 2000, the refugee problem in the Middle East is two-sided, and includes the Jews from Arab lands ''who came to Israel because they were made refugees in their own land.'' The Jewish post-1948 refugees, whose number was about the same as that of the Palestinian refugees from the same period, were resettled and rehabilitated in their new home—Israel. The Palestinians of the UNRWA refugee camps have not been offered any form of rehabilitation anywhere, and this is precisely the reason that the camps have become the incubators for so many suicide bombers. Thus, a peaceful resolution of the conflict continues to be stymied by the violent consequences of a decades-old policy of deliberately neglecting the Palestinian refugee problem and of deferring its resolution until some far-off future date. Today, for the sake of peace, the UN and the international community must reverse their long-standing and destructive Palestinian refugee policies and offer a dramatic and new humanitarian vision to the Palestinian refugees in the UNRWA camps and elsewhere.

A TRIBUTE TO COLONEL JAMES W. DELONY OF THE UNITED STATES ARMY CORPS OF ENGINEERS

HON. MIKE McINTYRE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. MCINTYRE. Mr. Speaker, it is with great pleasure that I rise today and honor Colonel James W. DeLony of the United States Army Corps of Engineers. On June 13, 2002, Colonel DeLony retired after serving the people of this great nation for over twenty-eight years.

James DeLony was a decorated officer, who spent his career ensuring that the freedoms the United States holds dear are protected. Throughout his illustrious career, Colonel DeLony was honored with the Legion of Merit Award, Bronze Star Medal, five Meritorious Service Medals, two Army Commendation Medals, two National Defense Service Medals, Joint Meritorious Unit Award, Saudi Arabia/Kuwait Liberation Medal, two Humanitarian Service Awards, Senior Parachutist Badge, Air Assault Badge, and the Ranger Tab.

As Commander of the Wilmington District United States Army Corps of Engineers, Colonel DeLony continued to serve the people by managing many civil works projects in southeastern North Carolina. Without the dedication and determination of Colonel DeLony, many of these projects would not have been possible. From the Wilmington Port to the Brunswick, New Hanover, and Pender County beaches, his commitment has been unwavering and steadfast.

We owe Colonel James W. DeLony our sincere appreciation for his twenty-eight years of committed service to our nation. His devotion to the people of the United States should serve as an example to us all.

May God bless him and his family, and may God bless this great nation.

PERMANENT DEATH TAX REPEAL ACT OF 2002

SPEECH OF

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 2002

Mr. TIAHRT. Mr. Speaker, all across this country moms and dads are striving to provide a bright future for their children. Parents who own small businesses or family farms put years of sweat and blood into making them prosper so they will have something to leave behind for their children. Here in America, dreams really do come true as individuals work hard to achieve great success. But here in America, we are also cursed by an offensive tax penalty that often forces families to lose these small businesses and family farms.

Last year when President Bush signed the Economic Growth and Tax Relief Reconciliation Act of 2001 into law, Americans were pleased to know that this curse, commonly called the death tax, would finally be terminated by 2010. What many did not realize is that this tax is scheduled to come back from the dead to haunt us January 1, 2011.

If a farmer or small business owner dies on December 31, 2010, no death tax will be charged. But if that person dies just one day later, the government will once again be there to offer its condolences by charging up to a 60 percent tax on the value of the farm or business. Instead of the final wishes of the deceased family member being honored with respect, the government just wants more money to waste in Washington.

After 2010, Americans who pay taxes their entire life will be taxed one final time when they die. No taxpaying citizen deserves to have the fruit of their labor taxed twice.

Just two months ago the House passed a bill that would make last year's tax cut permanent. Unfortunately, some politicians don't want to see this money leave Washington and have made every effort possible to obstruct doing away with this tax. That is why we are once again discussing this matter.

Any vote in opposition to permanently eliminating the death tax is a vote in favor of higher taxes for millions of Americans. Whether we make last year's tax cuts permanent with one vote or a dozen votes, I will continue fighting against raising taxes for my constituents in Kansas. I urge my friends and colleagues to join me today in voting to permanently kill this disgraceful tax burden imposed on families during their time of grief.

The death tax issue is not about how many rich or poor people have to pay a certain tax. It is about the inherent impropriety of taxing death. Whether a person is rich, middle-class, or poor, it is wrong to tax the dead.

I was proud to cosponsor the Permanent Death Tax Repeal Act of 2001 last year, and I look forward to its passage today. When I talk to Kansas farmers, agriculture producers, business owners and others who have invested wisely, I consistently get the same message: don't tax us when we die.

The American people are tired of Washington taxing and spending their money, and one of the most egregious actions this Congress can do is allow the death tax to come back to haunt us again.

Mr. Speaker, let's bury the death tax for good.

CEDAR CREEK BATTLEFIELD AND BELLE GROVE PLANTATION NATIONAL HISTORICAL PARK

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. WOLF. Mr. Speaker, after more than 11 years of study, effort, and public comment, I am proud to announce that today Senator JOHN WARNER and Congressman BOB GOODLATTE and I are introducing legislation to create the Cedar Creek Battlefield and Belle Grove Plantation National Historical Park. The concept for the establishment of a new national park in the Shenandoah Valley was one of the key recommendations within the Management Plan for the Shenandoah Valley Battlefields National Historic District.

This legislation is the result of work from a broad range of interest groups including the National Park Service, local partner organizations, locally elected officials, local landowners and others. I want to recognize their efforts to produce this legislation. I believe the strength of this legislation lies with this widespread public interest.

Legislation for the new park is an outgrowth of a bill sponsored by Senator WARNER and the late Congressman French Slaughter in 1988 and the law passed in 1996 which established the Shenandoah Valley Battlefields National Historic District sponsored by Senator WARNER and myself. The local citizen-based commission established for the Battlefields District recommended that Cedar Creek Battlefield be established as a new national park. The accompanying Park Service study found in fact only Cedar Creek met the criteria to be designated a national park.

Originally conceived as purely a battlefield park, the local stakeholders expanded the vision to include a broader scope of history. The new park will preserve and interpret the rich story of Shenandoah Valley history from early settlement through the Civil War and beyond and protect the historic landscape which features panoramic views of the mountains, natural areas, and waterways in the northern Shenandoah Valley.

Importantly too, the other nine Civil War battlefield sites within the Shenandoah Valley will benefit from the national park designation in the valley and increase in tourism at the new park, but each will continue to be protected and managed locally.

The proposed park boundary includes approximately 3,000 acres at the intersection of Frederick, Shenandoah and Warren counties and is based on the 1969 boundary establish for the Cedar Creek and Belle Grove National Historic Landmark. Today, of the 3,000 acres, Shenandoah County and three private preservation groups, including Belle Grove Plantation, collectively protect nearly 900 acres within the park boundary.

For years it has been the burden of local organizations to protect, honor, and interpret these nationally significant lands. Given increased development pressure, federal involvement is needed to help support the local efforts, to preserve historic lands for future generations, and to ensure continued high quality interpretation of the area.

This park is a model for a new type of national park for the future. A key provision allows all landowners to continue their right to

sell their land whenever and to whomever they choose. The keys to this model are:

A national park based on partnerships and local community involvement.

A park where private organizations, families, and individuals will continue to live, work, and play within the boundary,

A park that shares with visitors the full range of its cultural and natural history.

A park created by the local community for the benefit of this and future generations.

The park also will work with the community as land use and zoning decisions will continue to be administered by local authorities at the county or municipal levels.

There are several landowners who will become key partners to the park by operating independent anchor sites within the 3,000-acre park boundary that serve to collectively benefit the visiting public. For example, the Cedar Creek Battlefield Foundation will continue to host the annual Battle of Cedar Creek Reenactment Weekend and other events and the Belle Grove Plantation will continue to be open to the public as a private museum holding living history, education, and charity events within the new park. In addition, Shenandoah County has plans to develop a light recreation county park with hiking trails and scenic overlooks on nearly 150 acres along the North Fork of the Shenandoah River within the national park boundary.

Local involvement has played a key role in the crafting of the park legislation. The adjacent towns of Middletown and Strasburg enthusiastically endorsed the creation of the new national park. Private landowners within the proposed boundary shared thoughts and ideas on ways to ensure private property rights and quality of life and these important themes have been included within the legislation. The concept Is for this to be a local park first and foremost—park that is part of and benefits the local Shenandoah Valley community.

HONORING THE METROPOLITAN CHORUS

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. MORAN of Virginia. Mr. Speaker, I rise today to recognize the accomplishments of The Metropolitan Chorus (TMC), a community symphonic chorus located in Arlington, Virginia. This season marks the 35th anniversary of the organization's founding.

As the only community symphonic chorus based in Arlington County, TMC remains a visible force in Virginia's 8th Congressional District and plays a leading role in the cultural life of the region. This 90-member chorus offers residents the opportunity to perform a wide range of music, with pieces spanning the Renaissance period through the 21st century.

In the wake of the tragic events of September 11th, the TMC provided assistance to grieving citizens by organizing and conducting the Chorus and the Arlington Symphony Orchestra in Arlington's Day of Remembrance and Appreciation. Featuring many local and state dignitaries, the tribute honored the victims and emergency rescue personnel of the Pentagon attack. This rousing event lifted the spirits of all who were in attendance.

Under 26 years of outstanding direction by Artistic Director Barry Hemphill, the TMC has performed in a colorful array of venues from the Kennedy Center to Constitution Hall and in various locations throughout the world. A number of these shows were performed for free and given at special early times specifically for the elderly. Through actions such as these, TMC has proven its dedication to the development and promotion of the performing arts in Northern Virginia.

I applaud TMC's many contributions and wish them all the best at their season ending performance on June 24, 2002 at Lubber Run Amphitheater in Arlington Virginia capping off a highly successful 35th Anniversary season.

A TRIBUTE TO DR. WINSTON PRICE

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. TOWNS. Mr. Speaker, I rise in honor of Dr. Winston Price for his commitment to helping others.

After completing his training at Cornell Medical College and New York Hospital, Dr. Price began practicing pediatrics in Brooklyn in 1978. He also served as a Medical Director for Aetna US Healthcare and for the Pediatric Ambulatory Department at SUNY Health Science Center in Brooklyn. Dr. Price is currently an Assistant Professor of Clinical Pediatrics at the SUNY Health Science Center in Brooklyn as well as the Chief Medical Consultant for V CAST II International, a medical information systems and technology company. He has also been a medical advisor and lecturer with the Cornell Cooperative Extension and New York Department of Social Services.

Dr. Price sits on many committees including the Board of Trustees of the National Medical Association and he chairs the Informatics Subcommittee. He serves on a committee of the American Academy of Pediatrics as well as a committee of the National Committee for Quality Assurance. Dr. Winston Price was also appointed to the Administrative Review Board of the New York State Department of Health and served on that 5-member appellate board.

Dr. Price has also taken a special interest in serving the needs of abused women and children. He has remained an active advisor to the parenting program of Brooklyn and serves on the Board of the National Committee to Prevent Child Abuse and Neglect in New York State. He also serves on the Committee on Proactive and Ambulatory Medicine (COPAM) of the American Academy of Pediatrics as well as the PPAC Committee of the National Committee for Quality Assurance (NCQA). He coauthored the American Medical Association Guide on the Treatment and Prevention of Sexual Assault.

Even with all of these commitments, Dr. Price is an active member of several other organizations including the Office of Professional Medical Conduct and the Medical Society of the State of New York.

Mr. Speaker, Dr. Winston Price is dedicated to improving health care in the community. I hope that all my colleagues will join me in honoring this remarkable person.

TRIBUTE TO MS. JOANNE CARTER

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Ms. LEE. Mr. Speaker, I rise today to pay tribute to and express my high regard of Ms. Joanne Carter, the Legislative Director of RESULTS.

Since 1992, Joanne Carter has been the Legislative Director of RESULTS, an international grassroots citizen's lobby whose purpose is to create the political will to end hunger and the worst aspects of poverty, and to empower individuals as advocates with their governments, the media and in their communities.

RESULTS has active chapters in over 100 U.S. cities and in the UK, Canada, Japan, Australia and Germany. RESULTS works on a range of international and domestic issues—including expanding basic health programs to combat TB, AIDS and other major infectious killers, access to microcredit loans to allow very poor women to start their own businesses, reform of World Bank, health policy, and expanded access to Head Start preschool programs and quality early child care in the U.S.

Prior to joining RESULTS' staff in 1992, Joanne Carter coordinated RESULTS grassroots activity for New York and the northeast region of the U.S., and was a practicing veterinarian. She holds a DVM (Doctor of Veterinary Medicine) degree from Cornell University and has done graduate research in reproductive physiology. She has served as a VISTA volunteer and as a recruiter for the Peace Corps.

As many know, I have worked diligently on the global AIDS, TB and malaria crisis. As I have worked with my colleagues in the Congress and with health experts, people living with AIDS, TB or malaria, and the activist community, Joanne has been a key figure in helping me get people organized and sounding the clarion call. She understands so well the moral obligation and responsibility of wealthy governments and all of us, as individuals, to do all that we can to make a difference in stopping these horrific diseases.

Tonight it gives me great pleasure to honor Joanne. Please know that I stand with you in this fight and look forward to our continued work on these important priorities.

90TH ANNIVERSARY OF THE GIRL SCOUTS

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. SHUSTER. Mr. Speaker, I rise today to offer my congratulations to the Girl Scouts who are celebrating their 90th anniversary this year. Just this past weekend thousands of Girl Scouts converged upon the National Mall. to celebrate this anniversary and to pay respect to the values and ideas that the Girl Scouts has infused within them.

Today there are 2.7 million Girl Scouts across the United States. Through the Girl Scouts these young women are provided the opportunity to serve others while at the same

time discovering their own full potential. This organization infuses young women with core values and sound decisionmaking.

The Girl Scouts is also an educational experience for young women. They engage in activities that teach them about technology, science, money management, as well as health and fitness. All of this is accomplished while these young women build friendships and bonds that will last a lifetime.

The results are there as well. Over two-thirds of Girl Scout alumni are doctors, lawyers, educators and community leaders. They are out in our communities making a difference and using the values they learned from their days as Girl Scouts to positively influence our world.

I doubt that Juliette Gordon Low had any idea how successful the Girl Scouts would be when she held that first meeting in her living room back in 1912. Mrs. Low formed the organization in an attempt to provide young women with the opportunity to develop physically, mentally and spiritually. All one has to do is to look back over the Girls Scouts' long and illustrious history to see how successful Mrs. Low has been.

COMMENDING RADIO FREE EUROPE/RADIO LIBERTY ON RECEIVING FREEDOM OF SPEECH MEDAL

TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. LANTOS. Mr. Speaker, although freedom and democracy are integral elements in the political systems of many countries, basic freedoms are still denied in many others and are not fully institutionalized in still others. Radio Free Europe/Radio Liberty targets these areas, including Eastern Europe, the Middle East, Central Asia, Russia, and other former communist states, in order to promote free speech and political dialogue.

For more than fifty years, the organization has tirelessly supported free-thinking, freedom of expression, and democracy. Recently, the broadcasts have even been expanded to include and specifically target areas with large Muslim populations. In recognition of this history of work, the Franklin and Eleanor Roosevelt Institute awarded the "Freedom of Speech Medal" to Radio Free Europe/Radio Liberty on June 8.

Mr. Speaker, I wish to congratulate Radio Free Europe/Radio Liberty on receiving this award and recognize its outstanding work in promoting freedom. I earnestly commend the following acceptance speech given by my dear friend Thomas A. Dine, the President of RFE/RL, Inc., and request that the speech be placed in the RECORD.

ACCEPTING THE FREEDOM OF SPEECH MEDAL, ROOSEVELT STUDY CENTER MIDDELBURG, THE NETHERLANDS

Thank you for this wonderful, deeply meaningful award. It is a great, great honor to receive the Roosevelt Foundation's 2002 Freedom of Speech medal. No name better animates and exemplifies the work of Radio Free Europe/Radio Liberty and its daily commitment to freedom and democracy than Roosevelt.

As President of Radio Free Europe/Radio Liberty, I accept this award not only on behalf of the organization as it exists today, but also on behalf of its achievements during the Cold War and its importance as a fighting force in promoting freedom and democracy in the future, applying the highest journalistic standards of accuracy, balance, and objectivity.

Radio Free Europe/Radio Liberty has been battling for the cause of free speech and expression for over 50 years.

My colleagues and I will continue to fight as long as this most fundamental of freedoms is being controlled or suppressed in the countries to which we actively communicate via radio, Internet, and television.

Heading an entity called "Radio Free Europe," I am often asked, "But isn't Europe free?" It is true that the collapse of communism and of the Soviet Union has brought freedom to many parts of Europe that had been deprived of it for too long. However, suppression of speech, press, and assembly, sadly remains very much the rule on the European continent.

In Russia, for example, the Kremlin seems increasingly determined to control as much of the media as possible. Most recently, the government has coercively placed under its control several prominent independent media outlets, from television to radio to print, cloaking these power grabs as business transactions. More ominously, over the course of the last two years in Russia, 36 journalists have been killed or have disappeared. And last week Russia's Minister of the Press Lesin, in response to our daily news broadcasts in the Chechen language, warned us to stop interfering in Russia's domestic affairs.

The President of Ukraine is no friend of the first freedom. He is a likely suspect in the death of at least two reporters who dared criticize his administration for corruption and criminality. He is certainly responsible for a culture of fear that pervades the Ukrainian media environment.

The nation of Belarus is now under the thumb of the dictator Alexander Lukashenka, a man who openly expresses admiration for Stalin. Lukashenka ceaselessly harasses the press; deaths and disappearances of journalists have taken place in Belarus as well.

And a final contemporary example of the dismal condition of freedom of expression inside today's Europe exists in the Balkans, where Serbia, Croatia, Macedonia, and Bosnia are still not out from under the intimidation and controlling state grip of the Milosevic era.

In response to the specific challenges we face in this young century, Radio Free Europe/Radio Liberty has expanded the scope of its broadcasting across Europe and Asia. These broadcasts address the most difficult, but perhaps the most thrilling, battle yet for free speech: in areas populated by Muslims in Southeast Europe, Russia, the northern and southern Caucasus, Central Asia and Southwest Asia.

The terrorist attacks of September 11th highlighted for all of us the importance of the Muslim world in today's geopolitical landscape. Accordingly, a majority of Radio Free Europe/Radio Liberty's current 33 languages are targeted to peoples that practice the Islamic religion.

Our broadcasts now include Albanian and Bosnian to the former Yugoslavia; Tatar and Bashkir to Russia's Volga River region; Crimean Tatar to Ukraine; Avar, Chechen, and Circassian to Russia's North Caucasus; Azeri to Azerbaijan and Northern Iran; the languages of Kazakh, Kyrgyz, Turkmen, Tajik, and Uzbek to Central Asia; Farsi throughout Iran; Arabic to Iraq; and now Dari and Pashtu to Afghanistan.

I am particularly proud of the latter two, Dari and Pashtu, in which we are now broadcasting 10 1/2 hours a day to Afghanistan in response to that crisis. Next week, we will broadcast the Loya Jirga's deliberations live! Just as importantly, we have also established a program to train Afghan journalists in Kabul and Prague to help ensure that the new Afghanistan will be graced with a robust free press practicing the highest of professional standards.

In closing, it is a particular honor, both for me personally and for the organization I represent, to receive this award from an organization bearing the Roosevelt name. As President, Franklin Roosevelt instilled human rights in our collective consciousness and injected human rights into the center of our foreign policies.

So did Eleanor Roosevelt through her tireless work helping to create the Universal Declaration of Human Rights. It is no coincidence that a 1950's photograph of the former First Lady of the United States sitting in front of a Radio Liberty microphone adorns my office wall in Prague.

And it is Article 19 of the Universal Declaration that is the motto of Radio Free Europe/Radio Liberty, indeed all of United States international broadcasting.

It is a simple, but compelling and timeless pronouncement—"Everyone has the right . . . to seek, receive, and impart information and ideas through any media and regardless of frontiers."

This motto appears on our stationery, in all of our literature, on prominently placed hall plaques. It symbolizes everything we strive to achieve.

The more than 2,000 worldwide staffers of Radio Free Europe/Radio Liberty are eternally grateful for receiving one of this year's Four Freedom awards. I promise this Foundation and this distinguished audience that we shall energetically continue our mission of promoting freedom and democracy today — in order to expand freedom and democracy tomorrow.

Thank you very much.

THOMAS A. DINE,
President, RFE/RL, Inc.

RECOGNITION OF CHIEF DEPUTY DANNY CHANDLER

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. SAM JOHNSON of Texas. Mr. Speaker, it is an honor to bring to the attention of my colleagues a True Texas Hero, Chief Deputy Danny Chandler.

On behalf of the people of the Third District of Texas, I want to congratulate him on his promotion to be the first-ever Director of the Office of Security and Emergency Management in Dallas.

America is a whole different country since September 11. This is a different kind of war with a different kind of enemy. That is why Dallas has taken the lead to win the war for freedom, both at home and abroad. I know he will do a fine job heading that effort.

The Commissioners Court of Dallas County could not have picked a better leader. Starting as a Deputy Sheriff in 1973, Chief Chandler dedicated 29 years of his life to the Dallas County Sheriff's Department.

A highly decorated officer, he has put the lives and safety of others before his own. It's no wonder that Dallas Morning News named him a "Special Angel."

Mr. Speaker, it is my privilege today to recognize the courage and service of Chief Chandler. His selfless sacrifice, hard work and dedication to his community are an example to us all. The people of Dallas and the surrounding communities are blessed to have his leadership and commitment to our neighborhoods.

Chief, you have my admiration and support as you protect our Great State in the fight for freedom.

God bless you and God bless America.

THE MILITARY RETIREE DISLOCATION ASSISTANCE ACT

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. JONES of North Carolina. Mr. Speaker, I rise today to introduce a common sense piece of legislation to help our military retirees. As my colleagues know, service members and their families will move many times in a typical military career. These permanent changes of station or PCS often involve considerable additional expense, including the loss of rental deposits, connecting and disconnecting utilities, and wear and tear on household goods.

To help defray these additional costs, Congress in 1955 adopted the payment of a special allowance—a dislocation allowance. This was done to recognize that duty station changes and resultant household relocations are due to the personnel management decisions of the armed forces and not the individual service members. This amount was increased in 1986 and again in recent years. This is an important benefit for our military members.

However, as important as this benefit is, there is a category of service members who are not eligible to receive the dislocation allowance—the military retiree. This is despite the fact a vast number are subject to the same expenses as their active duty counterpart. In August 2000, the Marine Corps Sergeant Major Symposium recommended the payment of dislocation allowances to retiring members, who in the opinion of the Sergeants Major, bear the same financial consequences on relocating as those still on active service.

Military retirees must often seek employment not knowing what opportunities exist in the civilian world, where those opportunities are located, what the pay will be, or what possibilities are available for spousal employment. Retirees are sometimes faced with the prospective employers who offer less wages knowing they are in receipt of retirement pay, and falsely believing that retirees don't need the same salary as civilians for the same position. Additionally, the military retiree will have to meet the same financial demands for mortgages, insurance, taxes, and food on a smaller income.

For those reasons, I am introducing the Military Retiree Dislocation Assistance Act. This legislation would help ease the transition into retirement by amending 37 USC § 407 to authorize the payment of a dislocation allowance to all members of the armed forces retiring or transferring to an inactive duty status such as the Fleet Reserve or Fleet Marine Reserve. The vast majority of these retirees have given our Nation over 20 years of dedicated service. They have helped protect the very freedoms we all hold dear. Rather than simply pushing them out the door upon retirement, we should reward their service by providing modest assistance for their final change of station move. That is exactly what Military Retiree Dislocation Assistance Act does.

A TRIBUTE TO FLORUS WILLIAMS

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. FARR of California. Mr. Speaker, I rise today to honor Mr. Florus Williams who passed away in April. Mr. Williams, a highly decorated community member for many years, is survived by his wife of 63 years, Frances, four children, 20 grandchildren, and 17 great-grandchildren.

Mr. Williams was born in Fresno, CA, on January 2, 1916, but he lived in Pacific Grove, in my district, for 79 years. He served on the Pacific Grove City Council from 1971 to 1986 and served as mayor of Pacific Grove from 1976 to 1986. Mr. Williams also served as foreman of the Monterey County Grand Jury from 1987 to 1988 and was a member of Masonic Lodge 331 in Pacific Grove. He was also a recipient of the Masons's Hiram Award for his excellent service to the community.

Mr. Williams was known for his firm convictions. He truly believed in his work, and worked to improve the quality of life on the Central Coast. His admirable career of public service was dedicated to the citizens of Pacific Grove, and his contributions have made a significant impact. I, along with the Central Coast community, would like to honor the life of Mr. Florus Williams, whose dedication and contributions will be greatly missed.

REMEMBERING WORLD WAR II HERO GINO MERLI, MEDAL OF HONOR WINNER

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. KANJORSKI. Mr. Speaker, I rise today to honor the memory of a great American, Gino J. Merli of Peckville, PA. Mr. Merli passed away Tuesday at the age of 78, and with his passing, we have lost a true American hero.

I would like to insert here the two articles which appeared in the Scranton Times and Tribune on Wednesday about Mr. Merli, who exemplified the best of America's ''Greatest Generation.''

WWII HERO GINO MERLI DIES

(By David Falchek)

Gino Merli didn't embrace fame or his role of war hero.

Yet he accepted them as he lived his life, with a sense of duty.

So the man who rarely talked about the event that earned him the Medal of Honor responded to every letter praising him for his heroic deeds.

Mr. Merli died Tuesday at his Peckville home. He was 78.

On the night of Sept. 4, 1944, Army Pvt. Merli was manning a machine gun when German forces attacked near Sars la Bruyere, Belgium. The outnumbered U.S. forces began their retreat, but Pvt. Merli held his position, providing cover fire. Under attack with his fellow soldiers dying around him, he played possum.

When the Germans turned their attention to the retreating men, Pvt. Merli rose from the ground and fired, repeating the ploy again and again.

When he returned from World War II, his duty became serving other veterans. For 34 years, he was an adjudication officer at the VA Medical Center in Plains Township.

When veterans, unaware of Mr. Merli's record, talked about their war experiences, he never mentioned his own.

''He never put himself or his experiences against anyone else's,'' explained friend and Marine veteran Ike Refice. ''You never saw him point to himself or say 'Look at me. I have this medal.' ''

Not much changed in the time since he received a hero's welcome in Scranton in 1945 or walked the beaches of Normandy with Tom Brokaw in 1984.

In 1945, he told a cheering crowd of 500 people at the Hotel Casey that he'd ''rather be on the battlefield any day than make a speech.''

Yet, in a letter he sent to admirers, he wrote that he may have been motivated by ''my dead buddies or my hatred of war.''

NBC News anchor and author Tom Brokaw remembers Mr. Merli always talking of other soldiers, rather than himself.

''He was a reluctant warrior, full of modesty and humility,'' Mr. Brokaw said. ''The fact that he went to a church and prayed for men he had killed through the night was typical of him.''

Mr. Merli was an inspiration for Mr. Brokaw's book ''The Greatest Generation.'' The two met often. When Mr. Brokaw began writing his book about ordinary people doing extraordinary things, he said he was thinking about Gino Merli.

''I came to love him,'' Mr. Brokaw said.

Mr. Merli helped change how local people defined ''American.''

During World War II, Italy's alignment with Axis countries stoked anti-Italian and antiimmigrant sentiments. Italian Americans often found their patriotism questioned.

Gino Merli's heroics helped many in Lackawanna County see beyond ethnicity, said his son, Gino Merli Jr.

''When people saw my father come home and heard what he did, it changed their perception about what it means to be American,'' he said. ''People saw the first- and second-generation immigrants sacrificing life and limb for the United States and for freedom.''

In 1994, Mr. Refice and Mr. Merli visited Europe to retrace their steps through Europe. Oddly, the rural area where Mr. Merli held back Nazi troops was unchanged.

They met a Belgian man who, at the age of 16, watched Mr. Merli confound the Nazis again and again. During their visit, the town put a monument in the village common thanking Mr. Merli.

In his final days, he still shied away from speeches. But he did like to stand before a crowd for one purpose, Mr. Refice said. He enjoyed leading a crowd in the Pledge of Allegiance.

Lately, Parkinson's disease and a heart ailment held him back.

As a final encore last Saturday, the History Channel showed Roger Mudd's special on the Big Red One, the first infantry division, which featured Mr. Merli.

In letters he sent to admirers, Mr. Merli wrote:

''Not everyone can be a Medal of Honor recipient. But everyone can take pride in himself—have pride in his heritage. We must always keep trying to better ourselves and our surrounding and we must never quit. Always remember America is you and me.''

MERLI HELD POSITION SO HIS UNIT COULD ESCAPE

(By David Falchek)

At age of 18, Gino Merli was barely an adult and hadn't even graduated from high school.

Yet he became a hero.

Before he faced his greatest challenge as a gunner with the 1st Infantry Division, he had survived landing on Normandy and two subsequent battle injuries.

Pvt. Merli was a machine gunner near Sars la Bruyere, Belgium, on the night of Sept. 4, 1944, when German forces attacked.

As the outnumbered and outgunned GIs started retreating, Pvt. Merli held his position to provide cover fire as a tightening circle of German troops closed in on him. Tracer bullets and grenades blew up before him. His assistant gunner was killed, the cooling system of his gun was destroyed and death appeared certain. He slumped next to his dead colleagues, feigning mortal injury. German soldiers poked the bodies and turned them over with bayonets. Pvt. Merli didn't budge.

When the Germans advanced to pursue U.S. troops, Pvt. Merli sprang up, shooting in all directions. As new waves of Germans approached, he repeated the shot/play dead sequence.

In a speech in Scranton in 1945, Sgt. Milton V. Kokoszka recalled that horrible night.

''I saw (Pvt. Merli) had not been taken prisoner and after we moved some distance I would hear our machine gun open fire again,'' he said. ''I saw different enemy groups move into the emplacement and each time the gun would stop, and then start firing again as soon as they left. He had pretended to be dead.''

During the night, he watched a silhouette of a German soldier in the moonlight. The German knew his routine, Pvt. Merli thought, and was waiting for him to move. Although technically the enemy, Pvt. Merli felt a connection to the soldier he referred to as ''that German boy'' for the rest of his life.

The Germans sustained heavy losses at the nearby front, and 700 surrendered. The allies found Pvt. Merli the next day. He was covered in the assistant gunner's blood and his clothing was in tatters from bayonet jabs.

Around him were 52 dead Germans, 19 directly in front of his gun.

Pvt. Merli's only request was to visit a church.

He prayed for the men he had killed and for the safety of the German soldier he had watched through the night.

Mr. Speaker, we see the bravery and dedication of Gino Merli being carried on today in the men and women who are fighting our new war on terrorism. All of us in Northeastern Pennsylvania are proud to claim Mr. Merli as one of our own, and I join my fellow residents of Northeastern Pennsylvania in sending best wishes and condolences to his family.

IMPLEMENTING LEGISLATION FOR THE STOCKHOLM CONVENTION, THE ROTTERDAM CONVENTION, AND THE PROTOCOL TO THE 1979 CONVENTION ON LONG-RANGE TRANSBOUNDARY AIR POLLUTION ON PERSISTENT ORGANIC POLLUTANTS

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. GILLMOR. I am pleased to join my colleague, Mr. GOODLATTE, in introducing today by request the Administration's implementing legislation for the Stockholm Convention on Persistent Organic Pollutants, the Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and the Protocol to the 1979 Convention on Long-Range Trans-boundary Air Pollution on Persistent Organic Pollutants.

The Stockholm Convention was adopted on May 22, 2001, after many years of international negotiation under the auspices of the United Nations Environment Programme, UNEP, and it establishes an international framework for regulating the production, use, and disposal of persistent organic pollutants, including polychlorinated biphenyls, PCBs, and dioxin. The United States signed the Stockholm Convention over 1 year ago, along with over 110 other countries, but the United States cannot ratify the treaty until the Senate provides its advice and consent, and until sufficient authority has been granted through Federal legislation to ensure that the mandates of the agreement can be enforced.

On April 11, 2002, the Secretary of State and the Administrator of the Environmental Protection Agency, EPA, submitted to the Congress legislation to implement the Stockholm Convention, the Rotterdam Convention, and the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants. This legislation amends the Toxic Substances Control Act, TSCA, as well as the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) by providing the EPA with the authority to eliminate or restrict the production, use and release of 12 chemicals that can adversely affect human health because they are toxic; they persist in the environment for long periods of time; they circulate globally; and they biomagnify and accumulate in foods consumed by humans.

Specifically, the bill amends TSCA to prohibit or severely restrict the use of Aldrin, Chlordane, Dieldrin, Endrin, Heptachlor, Hexachlorobenzene, Mirex, Toxaphene, PCBs and DDT, while providing specific limited exemptions for their continued use. In the event that these chemicals continue to be used in accordance with an exemption, this legislation requires a certificate to accompany the chemicals providing detailed information. The legislation also provides EPA with the authority to collect additional information from manufacturers to assist in evaluating additional chemicals for potential addition to the restricted list in the future, and to prohibit the exportation from the United States of these banned or severely restricted products, unless the exportation complies with specific conditions and restrictions established by the EPA. The bill also requires exporters of listed substances to provide prior notice to EPA of all exports and to include additional labeling, and the bill similarly amends FIFRA to prohibit the use, sale and exportation of the prohibited or restricted chemicals that are pesticide active ingredients.

Today, I am pleased to introduce by request the Administration's legislative package that, once enacted, will allow the United States to ratify the underlying treaties. As the chairman of the Environment and Hazardous Materials Subcommittee of the Committee on Energy and Commerce, I look forward to working with the administration, my colleagues in the House and other body, and all interested parties, in putting a package together that we can send to the White House soon. As we proceed, I will keep an open mind on the need to make improvements to the bill I'm introducing today. This can and should be bipartisan legislation that will demonstrate the United States' leadership in the international environmental arena.

A TRIBUTE TO STEVEN KAPLANSKY: A TRUE NEW YORKER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. TOWNS. Mr. Speaker, I rise in honor of Steven Kaplansky in recognition of his long time commitment to his community.

Steve was born in Manhattan and he grew up in Queens, amidst the historic Bowie House and Quaker Meeting Hall. Here, Steve learned important lessons of cultural diversity and love of community, which he took with him throughout his life. He went on to receive his college education at Long Island University, where he majored in sociology and history. He earned his masters degree from the Hunter School of Social Work, and became a New York State certified social worker.

Aside from two years which he spent building community centers in Florida, Steven Kaplansky has spent his entire professional career in New York City. As an assistant director of the Flushing YHMA, he developed programs with the Lexington School for the Deaf and the Association For Help To Retarded Children, as well as an interracial youth council with Baptist churches. In 1976, he became the youngest executive director of a YHMA, and developed nontraditional programs, such as enriched and senior housing for the elderly, the only kosher Battered Women's Shelter in America, community services programs for those being discharged from mental institutions, interracial councils, neighborhood preservation projects and one of the first local development corporations in New York City.

Steven's nonprofit work has been equally impressive. He was instrumental in establishing the Sam Levenson Cultural Arts Foundation and helped to establish One World One Heart, a nonprofit organization, which provides cultural, educational and neighborhood enrichment programs through music for communities-at-large. A one-time board member of the Local Development Corporation of East New York and a current board member of the

Brooklyn Bureau of Community Services, Steven was recently a of a Department of Employment study for job retention in the food industry in New York City. He is also a trustee for Local 348S Food and Commercial Workers Union and the Director of the Koni Arts Foundation. In addition, he has worked on environmental issues, including water, power, and food waste, with both the city and the state.

From the 1980's until recently, Steven has worked for Blue Ridge Farms as the Government Community and Public Relations Director, as well as the Personnel Director. He was instrumental in providing donations to the community, including aiding at Ground Zero. Furthermore, he helped the company save over 500 jobs. He has also worked in food banks, homeless shelters, block associations, local police councils, youth groups, and senior centers. He currently is working with Aviation Systems of New York to develop technology to prevent explosions in airplanes, and is a consultant to World Vision, Inc. a music management and entertainment corporation.

Mr. Speaker, Steven Kaplansky has spent his life working tirelessly on behalf of his community. As such, I urge my colleagues to join me in honoring this truly remarkable man.

HONORING NATIONAL SMALL CITIES DAY

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. BARR of Georgia. Mr. Speaker, Friday, June 14, 2002, marks the first ''National Small Cities Day'' in honor of smaller communities of our country. I would like to help make our colleagues aware of this event and the significant role that small cities play in making up our great Nation.

An overwhelming majority of Americans live in cities with populations under 25,000. These small cities form the backbone of our Nation and contribute enormously to the character of all Americans. It is in these cities that we find the spirit of America in which we take so much pride and give so much to protect.

Living in a small city affords Americans the ability to involve themselves in the building of a community through involvement with local schools, government, and the daily activities which go into raising their community's children to be responsible, virtuous citizens.

Small cities across America will be joining each other today to recognize the contributions to our way of life made by their communities and those who live in them and help them thrive. We should all join them in recognizing and thanking our citizens who comprise these communities for all that they have done and continue to do every day.

RECOGNITION OF KEEPING THE PROMISE

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today to express my sincere appreciation for those men and women currently serving in our armed forces, in particular those who are engaged in the war against terrorism.

My home state of Oregon welcomed ships from the U.S. Navy, U.S. Coast Guard and the Canadian Fleet during our annual Rose Festival held this past week. I would like to thank Captain Terry Bragg, Commodore Destroyer Squadron One, his staff and crew aboard the USS *Paul F. Foster*. The *Paul F. Foster* and crew will soon be deployed in support of Enduring Freedom.

Also I would like to thank Rear Admiral Erroll M. Brown, District Commander of the 13th Coast Guard District, the Men and Women aboard the U.S. Coast Guard Cutter *Hamilton* for their appearance at this event.

I can assure you that the leadership, morale, and dedication of all the officers aboard these ships were of the highest caliber as well as those men and women who serve aboard these ships. I can truly, say, the defense of our nation is in good hands when we have such professionals as those aboard the ships that visited Oregon this past weekend. All serve our country with pride and all Americans should be proud of them.

When we ask people to put their lives on the line to protect our country, we have a profound obligation to honor our promises to those whose service has kept our nation free. The men and women who have served our country so honorably know best that freedom is never free, that it is only won and defended with great sacrifices.

Once again I want to extend my gratitude and pride to all the men and women who serve our country, in the armed forces.

You make us all proud.

CONDEMNING THE PRIVATIZATION AND COMMERCIALIZATION OF OUR AIR TRAFFIC CONTROL SYSTEM

HON. NEIL ABERCROMBIE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. ABERCROMBIE. Mr. Speaker, I join with my colleague, Mr. BLUMENAUER and the others, in condemning the executive order issued late last week which will allow our air traffic control system to be commercialized and privatized.

We in Congress passed legislation strengthening our public transportation systems to help insure greater safety and the prevention of terrorism. We have recently federalized airport security and baggage inspection. Are we, at the same time, turning over absolutely essential air traffic control to the private sector, which utterly failed in airport security? How is this going to increase public confidence in air travel ?

It is outrageous to propose actually privatizing a government service as essential as assuring the safe and orderly operation of the thousands of airline flights daily. When the private sector cannot perform an important and vital service adequately, it becomes essential that the government assure that it is performed to public expectations. That has become the case with air travel. It flies in the face of logic that any steps be taken toward dismantling the air traffic control system and turning functions over to the private sector.

I have been working with and debating officials in the Administration on the merits of privatizing government functions. As a member of the House Armed Services Committee, I have been deeply concerned about the outsourcing of military jobs for many months. Clearly, this is another attempt to bring the private sector in to perform duties carried out by the civil service and other professionals.

Mr. Speaker, I am not against the private sector nor making a profit. But there are instances where making profits should be a totally secondary consideration. Profit must not be the bottom line in assuring public air travel safety.

Perhaps privatizing OMB would be a good next step. It might bring some level of common sense to the Administration.

PERSONAL EXPLANATION

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Ms. MCCULLUM. Mr. Speaker, I would like to officially state for the record that I incorrectly recorded my vote on rollcall No. 225 as a ''yea'' vote. I intended to vote ''no'' against passage of the Tax Limitation Amendment to the Constitution, H. J. Res. 96.

WEST GENESEE WILDCATS, 2002 NEW YORK STATE LACROSSE CHAMPIONS

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. WALSH. Mr. Speaker, I rise to celebrate a victorious day for West Genesee High School as both the men's and women's lacrosse teams captured the New York State Lacrosse Division 1, Class A Championship titles. It was a memorable day that will go down in history for the Wildcats, as both teams soared triumphantly to the top.

The day began as the women's team traveled to Cortland, New York to defend their state title, and this is exactly what they accomplished. The team ended their undefeated season with a 15–11 win. Later that afternoon at Hofstra University, the men's lacrosse team regained the State title with an exciting 10–9 victory. As Coach Mike Messere stated ''It was one of the most exciting games I've seen.''

West Genesee Lacrosse has always had the reputation for a stellar program, and as displayed this past weekend, the program continues to generate gifted athletes. These students work year-round to master the sport, and because of their relentless hard work, dedication, and passion for the game, they came out true champions.

I am proud of these devoted athletes, and I commend the coaching staff, parents, and entourage of supporters who traveled this long road with them. This type of outcome does not happen overnight, nor is it a result of just one season. It takes years of dedication to get such results, and this entire team should be proud of their accomplishments.

I would like to acknowledge the athletes and coaching staff who brilliantly represented their school, county, and state this past weekend:

For the women: Chrissy Zaika, Eileen Gagnon, Vanessa Bain, Shannon Burke, Meghan Burgoon, Katie Donovon, Lindsey Moore, Jackie Griffin, Kendall Tupper, Lindsey Shirtz, Kelly Fitzgerald, Colleen O'Hara, Nicole Motondo, Katherine Kenneally, Juilie Fabrizio, Kelly Kuss, Katherine DelPrato, Beth Elmer, Lindsey Hamann, Meghan O'Connell, Katie Kozloski, Keelin Hollenbeck, Eileen Flynn, Head Coach Bob Elmer, and Assistant Coach Erica Gerber.

And for the men: Mike Malfitano, Dean Mancini, Jake Bebee, Zack Forward, Jeff Murphy, Jed Bebee, Alex Cost, Kevin Hennigan, Matt O'Connell, Andrew Hanover, Rob Lemos, Mike Conklin, Cheney Raymond, Mark Conklin, Pat McCormack, Chad Clark, Drew Dabrowski, Devin Burgoon, Kiel Moore, Mike Solamon, Jim Mullaley, Andrew Sugar, Bill Gleason, Casey Rotelia, Chris Bulawa, Brian Cummings, Matt Woolsbiager, Brian Calabrese, Bob Toms, Mike Malone, Andy Zysk, Matt Cassalia, P.J. Burns, Head Coach Mike Messere, Assistant Coach Bob Deegan, and Scorekeepers Melissa McCarthy, Shadia Nesheiwat, Monica Macro, Kim Fischmann, Danielle Wood, and Jessica Lebduska.

TRIBUTE TO REVEREND SOLOMON YOUNG-MIN KIM

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. TOWNS. Mr. Speaker, I rise in recognition of Reverend Solomon Young-Min Kim, a well-respected leader in both the Brooklyn and Queens communities.

Rev. Kim was born in Pusan, Korea. He received a Bachelor of Science degree in Metallurgy from Korea University and has studied at the New York Theological Seminary, the Korea New Church Seminary, and the Swedenborg School of Religion.

Rev. Kim is the pastor of The Mirral Church in the Bensonhurst section of Brooklyn. He has helped solve ethnic issues between the Korean businessmen and the Black community, by getting the Korean businessmen to employ more residents from the Black community. He has also fostered relationships between the Korean community and the Caribbean-American, Haitian, and Italian communities. Rev. Kim's work with Brookdale University Hospital and Medical Center, as well as with the Brookdale Hospital Schulman Institute Nursing Home, has allowed him to spend time visiting the sick and the shut-in. He has also worked with the New York City Department of Correction by providing spiritual guidance and hope for a renewed life after prison to the population. Additionally, Rev. Kim helped organize the Census 2000 effort in the Korean communities of Bensonhurst, Bayridge, Flatbush, East Flatbush, Flushing and Queens, as well as in New Jersey.

Rev. Kim's activism is also evident in his attitude towards education. He formally supports an after-school program for Korean students in Bayridge and Bensonhurst who are having a tough time academically. But Rev. Kim's commitment to education extends to people of all ages. In addition to the Korean Youth Festival, he has established senior/youth intergenerational programs, aimed at initiating ongoing dialogue, rarticipation and education, as a team in the Korean community.

Rev. Kim's efforts have earned him numerous accolades and awards, such as the Asian American Heritage Award from the Borough President of Brooklyn, the Distinguished Ecumenical Award from the Wesley McDonald Holder Regular Democratic Club Women's Caucus, and the Community Service Award from Assemblyman Clarence Norman Jr.

In closing, I would like to personally thank Rev. Solomon Young-Min Kim for his steadfast devotion to Brooklyn's Korean community and I urge my colleagues to join me in honoring this truly dedicated spiritual leader.

INTRODUCTION OF ADMINISTRATIVE LAW ENHANCEMENT ACT OF 2002

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. GEKAS. Mr. Speaker, today I introduced an important bill, the ''Administrative Law Process Enhancement Act of 2002,'' that reforms the organization of the administrative judiciary within the Social Security Administration (''SSA'') by establishing an Office of Administrative Law Judges (the ''Office'') within SSA that is administered by a Chief Administrative Law Judge (''Chief Judge'') who reports directly to the SSA Commissioner.

The national ALJ hearings function and hearings field operation that presently is within the SSA Office of Hearings and Appeals (''OHA'') would be transferred to the office by the proposed legislation. The Chief Judge would be in charge of the office, be appointed by the Commissioner for a term of six years that is renewable once, and be subject to removal only upon a showing of an enumerated cause. The Associate Commissioner of OHA would continue to administer the Appeals Council. The changes proposed in the bill provide for a reorganization of the SSA that will not result in any additional costs to SSA or the government.

Currently, the SSA is without a functioning Office of the Chief Administrative Law Judge. The functions for both the adjudication of administrative claims by SSA administrative law judges (''ALJs'') and the appellate process for the review of ALJ decisions by the Appeals Council are located within the OHA. The ALJ portion of the OHA is under the dual leadership of a Chief Judge and an Associate Commissioner of OHA. The position description of the Chief Judge places the Chief Judge in charge of the national ALJ hearings function and hearings field operation of OHA. The Associate Commissioner of OHA is placed in charge of the national ALJ hearing function and the Appeals Council, and has major policy-making and policy-implementation responsibilities for OHA. The Chief Judge reports to the Associate Commissioner of OHA, who in turn reports to the Deputy Commissioner for the office of Disability and Income Security Programs (''ODISP''), who in turn reports to the SSA Commissioner.

In the current organization of SSA, the OHA and the ALJ function are submerged in the bureaucracy and are far removed from the Commissioner. The Social Security Advisory Board recently prepared a report on the Social Security disability system that expresses concern about the OHA functions being buried too low in the agency, the need to elevate these functions to direct oversight by the agency leadership, and the need for greater ALJ function independence. Charting the Future of Social Security's Disability Programs: The Need for Fundamental Change, January 2001, p. 19. The current structure prevents the Commissioner from having effective oversight of the ALJ hearing process. The ALJ adjudication function should not be treated as a staff responsibility in SSA. The ALJ adjudication function is a major program of the agency with every individual in this Nation being a potential claimant within the SSA system. The SSA ALJ hearing system protects a constitutional right of our citizens and provides a constitutionally protected due process hearing to members of the American public. This vital process should have direct oversight from the Commissioner and the Chief Judge should have direct interaction with the Commissioner.

Another major defect in the current OHA is created by the dual leadership responsibilities of the Chief Judge and the Associate Commissioner. Frequently, these two leaders are competing for power to control the administrative and/or policy decisions for the ALJ hearing component of SSA that has deprived OHA of strong, effective leadership. Several years ago, the Associate Commissioner attempted to reorganize the responsibilities of the Chief Judge and divest the Chief Judge of most of the powers of that office, leaving the Chief Judge with some minor duties relating to judicial education and staff support for the Associate Commissioner. The Associate Commissioner and the Deputy Commissioner of ODISP also tried to compel the Chief Judge to resign because he resisted the inappropriate diminution of his duties. This scheme was thwarted by the efforts of interested individuals and organizations together with the oversight action of the Congress.

The lack of effective leadership and direction of the OHA and reduction of the Chief Judge function also has resulted in an organization that has been deteriorating in its efficiency. For over 10 years, several reforms have been imposed on the SSA hearing process. Each attempt has resulted in failure. Subsequent to the latest reform, the HPI reorganization in the hearing office process that was implemented in January 2000, the number of case depositions have dropped while the case processing time and the case backlog have increased. The result has been poorer service for the American public.

Better service for the American public by increasing case dispositions, reducing processing times, reducing case backlogs, and improving decision quality will result from the proposed legislation, which will ensure effective leadership of the ALJ hearings component of SSA. The ALJ hearings component of SSA will be treated as an organization that is responsible for administering a major agency program. It no longer will be organized as a staff function within SSA. The Commissioner will have direct oversight of the ALJ hearings component of SSA, which is necessary to effectively administer this important program that provides constitutional due process hearings for the American public. The ALJ hearing component of SSA will have one individual responsible for administrative operations and policy

making: a Chief Judge who reports directly to the Commissioner. The bill will improve leadership, efficiency and quality in the ALJ hearings component of SSA by eliminating the possibility of detrimental political struggles between the Chief Judge and other subordinate leaders within SSA, which will prevent changes in the ALJ hearing process that are motivated by the negative force of intra-agency infighting and ensure that the American public receives fair constitutional due process hearings.

Establishment of the office of Administrative Law Judges within SSA significantly would increase the speed and quality of the disposition of Social Security Act claims for the American public and increase public trust and confidence in the integrity and independence of decisionmaking by SSA ALJS. This effort should be a bipartisan activity of the Congress in the interest of good government, and to that end, I invite my fellow colleagues on both sides of the aisle to join me in sponsoring this bill and in making the office of Administrative Law Judges within SSA a reality this year.

REFLECTIONS ON 9/11

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. HALL of Texas. Mr. Speaker, I rise today to recognize a student in my district, Craig Halbrooks, who is the grandson of Judge Larry Craig, a great friend and respected judge in Smith County. Judge Craig brought to my attention his grandson's poem, which reflects on September 11. This poem—written by a 14-year-old—captures the sentiments of many Americans and many of our youth regarding that terrible day in our nation's history, and I would like to share it with this body:

On September 11, 2001 the United States was struck with an act of terror
With the Afghanistan leaders responsible, soon there would be nothing there.
Why would some do such a thing?
Take their lives to destroy another's, what could they be thinking?
Nearly four months later, the tears still flow and emotions run high
Why did these people have to hurt so many lives?
As we board planes, subways, and even a bus
We wonder just exactly who we can trust.
It matters little whether Christian, Muslim or Jew
We wonder what each is capable to do.
We look around us on the ground and in the sky
Wondering who will be the next to die.
Will it be a child, family or friend?
When will this scary stuff end?
I'm so glad that we have a President who
Strives to protect even me and you.

IN MEMORY OF AUBREY LEE McALISTER

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. HALL of Texas. Mr. Speaker, I rise today to honor the memory of Aubrey Lee McAlister, who passed away around this time last year—May 15th, 2001. I still think of him often. He was 89. Audrey was a distinguished reporter, war veteran, caring community leader and beloved husband and father. He and his wife, Aubrey, were dear personal friends—ones we visited with often.

Aubrey was born on October 5, 1911 in Walters, Oklahoma. Even as a young teenager he showed his eagerness to work in journalism spending his after-school afternoons learning to operate printing equipment and type setting as a printer's devil in the local paper's office.

After High School, Aubrey went to Cameron College and transferred to Oklahoma State University, where he received his degree in journalism. At the outbreak of World War II, Aubrey enlisted in the US Navy, even though he was exempt from the draft. As a Navy enlisted correspondent he served in the Pacific theater aboard the USS *Colorado*, a vessel that participated in the battle for Okinawa.

Aubrey moved to Bonham in 1955 when he bought the Bonham Daily Favorite, a local newspaper, with a partner. He served as its publisher until 1976. Across the state he was active as a member of the board of the Texas Press Association. He served as the President of the TPA in 1964.

Within the community, he served as an elder and a deacon of his church, the First Presbyterian Church, and was a long-time and active member of Rotary International. He was a Paul Harris Fellow and had served as president of two different clubs. In 1964, he was named East Texas Chamber of Commerce Man of the Month and the Bonham Chamber of Commerce named him the town's Outstanding Citizen. He also served as the chairman of the Bonham Water Authority, which oversaw building a community water reservoir. He helped organize the city's first planning and zoning commission and was chairman of the Fannin County Fair.

Most of all, Aubrey was a loving father and husband who always showed his kindness to others. He was survived by his wife, Audrey; one son, Don McAlister; a granddaughter, Sara Delao; and his brother, Ray McAlister. Mr. Speaker, we will miss him but always remember him as a beloved community leader and kind man who gave a lot to East Texas—Aubrey Lee McAlister.

A TRIBUTE IN MEMORY OF REVEREND S. AMOS BRACKEEN 2D

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise to honor the memory of Rev. S. Amos Brackeen 2d, 83, a social activist, and founder of the Philippian Baptist Church, who recently died after providing more than four decades of spiritual and civic leadership in Philadelphia.

From the time Rev. Brackeen arrived in our city in 1959 to become pastor of Jones Memorial Baptist Church, he was recognized as a theological activist.

In the early 60's he stood on street corners with civil rights leaders and demanded accountability from the Philadelphia Police Department when a white officer shot and killed an African American man suspected of shoplifting. He was appointed by the Mayor to a committee helped to expose racial disparities in the payment of city workers.

As a member of the Baptist Ministers Conference of Philadelphia and Vicinity, Rev. Brackeen fought discriminatory practices by city labor unions. He also led the North Philadelphia Human Relations Committee, which sought to improve relations between police and the residents of North Philadelphia.

While continuing the fight for equality for African Americans, he also focused on the importance of economic equity. In that regard he became part of an effort that established an African American owned bank in Philadelphia.

In 1965, he founded Philippian Baptist Church in the First Congressional District with less than a hundred members. Today, there are 1,500 congregants.

However, his theology went beyond America's shores. As treasurer of the Baptist Foreign Missions Bureau, he gathered support from his congregation to help build a church in Nigeria, West Africa and a church and school in Haiti. He also sponsored the establishment of the Philippian Baptist Home Mission for Haitians newly migrated to Philadelphia.

While Rev. Brackeen was born in Port Arthur, Texas, the son of the town's first African American physician, his adopted City of Philadelphia has been enriched and spiritually fed by this progressive and dynamic child of God and leader of the faithful. I know my colleagues will join me in expressing my condolences to his loving family and congregation.

ON THE DEATH OF DR. MAXIE C. SPROTT

HON. NICK LAMPSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. LAMPSON. Mr. Speaker, today I rise to recognize the outstanding career of Dr. Maxie C. Sprott, who unfortunately passed away this week. During a tenure of forty-five years, Dr. Sprott dedicated his time to make sure that those members of his community unable to afford health care, received the proper medical treatment they deserved.

Dr. Sprott, with the help of his brothers, opened Sprott Hospital in 1955 to give black residents a place to receive medical care and black doctors a place to practice. He also was heavily involved with the ''I have a Dream'' program, providing mentoring and educational service to young people. Despite these great achievements, he was a humble man, accepting such items as poultry and fish as pay from patients when they could not afford office visits.

Mr. Speaker, Dr. Maxie Sprott's career was seasoned with numerous examples of selfless hard work and extraordinary achievement in service to our great Nation. His contributions to Southeast Texas are immeasurable. I ask my colleagues to join me in remembering Dr. Sprott for his enduring service in the field of medicine and the generations of families that he took care of.

Thank you for your service, Dr. Sprott, your work was part of the fiber of Southeast Texas, and with your passing a great loss will be felt in the spirit and the heart of our community.

A TRIBUTE TO MAURICE A. REID

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. TOWNS. Mr. Speaker, I rise in honor of Maurice A. Reid, the President and CEO of the Brownsville Community Development Corporation (BCDC), and his many years of dedicated service to the community.

Maurice Reid has a Masters Degree in Public Administration from the Executive M.P.A. program of Baruch College, CUNY, and a Bachelor's Degree from the School of Business, Manhattan College. In 1995, he completed a two-year fellowship from the Southern Regional Council as a Voting Rights Expert-in-Training.

He joined the BCDC after nine years as the Deputy Director for the Center for Law and Social Justice at Medgar Evers College, CUNY. Prior to assuming his post at the CLSJ, Maurice served as Administrative Assistant and District Director to newly elected Congressman Major or Owens.

Maurice's management career began when he became the first director of the Brownsville Community Council's Head Start Program. He also helped found the Brownsville Child Development Center, and served as the first Executive Director/CEO for twelve years. Maurice has also held positions as the President of the Central Brooklyn Mobilization Democratic Club, the Chairperson of the Committee for An Effective School Board # 23, and as the Chairperson and Secretary/Treasurer for United Housekeeping Service, Inc. and United Homecare, Inc. Additionally, he has been a member of the Coalition for Community Empowerment and the Board of Directors of the American Reading Council. Maurice is currently a member of the Board of Directors of the Community Health Care Association of New York State.

After nearly 17 years of involvement with the BCDC, as a board member and Chairperson, he became President and CEO. His hard work and dedication have clearly paid off.

Mr. Speaker, Maurice A. Reid is committed to serving and improving his community. As such, he is more than worthy of receiving this recognition and I urge my colleagues to join me in honoring this remarkable man.

PERMANENT DEATH TAX REPEAL ACT OF 2002

SPEECH OF

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 2002

Mr. SOUDER. Mr. Speaker, I rise today in support of the permanent repeal of the death tax. The repeal of this particular tax is especially important in ensuring that small and minority-owned businesses as well as family farms are not destroyed due to the inability to pay this archaic tax.

A family death is already a difficult burden to bear. The death tax furthers the family's pain by presenting the survivors with the choice of either paying a large death tax or, if unable to secure the funds to pay the tax, selling their family's farm or business. Not only do survivors lose their jobs when forced to sell a family business, but countless employees of the business often find themselves on the streets as well, losing their job, health insurance, and benefits. We cannot continue to watch as children who have worked their entire lives in a family business lose what is rightfully theirs simply because selling their business is the only way they can raise the necessary funds to pay the estate tax.

Additionally, numerous surveys of small business owners have indicated that the estate tax is a primary threat to the expansion of their businesses because they spend more money on estate planning than expansions. Lack of business expansions translates to a lack of new jobs being created at that business.

Finally, I want to clarify that under the law enacted in 2001, the death tax is to be repealed in 2010 ensuring that all assets transferred from one generation to the next would not be subject to the estate tax, but would instead be subject to the capital gains tax. Appropriately, the families of the decedent would have a choice to either continue the family business or sell it and then pay a capital gains tax. Families should make the decisions regarding the sale of their farms and businesses rather than be forced to sell in order to pay an exorbitant death tax.

PERMANENT DEATH TAX REPEAL ACT OF 2002

SPEECH OF

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 6, 2002

Mr. CRAMER. Mr. Speaker, I rise today as Co-chairman of the End the Death Tax Caucus in support of this bill and in opposition to the death tax. Eliminating this unfair provision in our tax code has been a priority of mine since becoming a Member of this body.

Today's death tax places a tremendous burden on America's small businesses and family-owned farms, which are at the heart of the economic vitality of our communities. Small businesses and farms can quickly reach the current low exemption levels for the death tax.

For example, urban convenience stores invest an average of $1.24 million per store for land, building and equipment, and rural stores invest almost $900,000 per store. Construction companies often need to purchase expensive heavy equipment to build our buildings, roads, and bridges. Our farmers, machine shops, and many other businesses often invest in equipment that involve high capital outlays. The Alabama Farmers Federation tells me that much of family farm estates is usually locked up in their farmland, which often must be sold to pay the estate tax. Too often, this tax has forced American families to liquidate a business or farm that was built on years of hard work and sacrifice.

The tax relief package enacted last year provided temporary relief from the death tax. This law provides for a slow drop in death-tax rates from 50 percent to 45 percent and then an abrupt drop to zero in 2010. For some of us—like myself—this reduction does not occur fast enough. Over the same time period, the exemption increases from $1 million to $3.5 million. Regretfully, current law resurrects the death tax in 2011, with tax rates as high as 55 percent and an exemption at the low level of $675,000.

This temporary repeal does little to alleviate the estate-planning burden on our families. It forces them to play expensive, cumbersome games of tax strategy instead of allowing these entrepreneurs to reinvest their money and time into building their business. In fact, the temporary nature of the current law has made an already-complex tax code more complicated, and estate planning more difficult. Estate planning for farms is further complicated by the uncertain nature of the future net worth of farm operations. This money spent on estate planning—both attorney's fees and insurance premiums—would be better spent invested back into the business and providing job growth for our nation.

Family businesses spend nearly $14.2 billion a year on estate planning and insurance costs. This capital that is used for estate planning is an economic drag on family businesses at a time when they must deal with other economic burdens beyond their control.

The sunset provision simply prevents small business owners and farmers from taking advantage of the repeal. Unless they know for a fact that they will pass on by the year 2010, they must continue to pay tax advisors to help them secure their family's welfare in the future.

According to the IRS, just in the tax year 1999 alone, $227 million was collected from the estate tax in my state of Alabama. One study shows that permanent repeal would increase our GDP a total of $150 billion over 10 years, and it could provide an additional 165,000 jobs per year. The anti-growth death tax causes small businesses—who are undercapitalized in the first place—to cut back on labor, re-investment, and risk-taking. Studies have also shown that the death tax encourages small business owners to sell out or merge with larger companies.

Furthermore, the death tax can encourage the rich to spend down their savings on lavish consumption. A Joint Economic Committee study estimated that the death tax existence has reduced the nation's pool of savings by $497 billion.

Mr. Speaker, this tax is an unfair tax. It double-taxes income that was already taxed when it was earned, It is collected at a time of deep grief for our families. And it penalizes those who have worked hard over a lifetime to provide for the future security of their family.

In closing, Mr. Speaker, the time has come to finish the job and get rid of this unfair, burdensome tax once and for all. The death tax reduces wages, it reduces job creation, it discourages savings, and it is a leading cause of the liquidation of small businesses. Permanent relief from this death tax is critically important for America's family-owned small businesses and farms.

Finally, let me thank my colleague from Washington and Co-Chairwoman of the End the Death Tax Caucus—Congresswoman DUNN—for working with me in a bipartisan manner to remove this unfair provision from our tax code.

I urge Members to support this legislation.

HONORING LOUISE BELKIN, FRANK JOSLYN, AND TERRY WERDEN FOR THEIR OUTSTANDING SERVICE AND DEDICATION TO TEACHING AT THE WEST DISTRICT SCHOOL IN FARMINGTON, CONNECTICUT

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise today to acknowledge the achievements of three excellent teachers from West District School in Farmington, Connecticut. They are Mrs. Louise Belkin, Mr. Frank Joslyn, and Mrs. Terry Werden. All three will leave West District at the end of the 2001–2002 school year.

Mrs. Belkin has been an elementary school teacher in the Farmington School System for 33 years, teaching at West District for 27 years. She has been a leader in the field of mathematics and served as the school's math resource teacher for 14 years. During this time, she created and composed math curriculum and assessments for the district as well as organized and taught the district's math summer school program. She has served as an elementary-level representative to the ATOMIC Executive Board and a PIMMS Fellow. In 2001, she co-authored a geometry book to be used by teachers published by the National Council of Teachers of Mathematics. Mrs. Belkin has actively served in the Farmington Education Association, serving as the building representative for ten years, treasurer for fourteen years and a member of the negotiations committee through five contracts.

Over the past 20 years, Mrs. Belkin has arranged for me to hold annual press conferences for West District School's fifth grade. I have looked forward to this every year and regret that Mrs. Belkin's retirement and the change in the grade structure in the Farmington School system mean the end of these events at West District School.

Mr. Frank Joslyn was recognized as Farmington's Teacher of the Year for 1993–94. He served with the Farmington Education Association as a building representative, a Council member and an officer. He developed and implemented a ''Homes of America'' program for both parents and children, teaching them history through architecture. He also co-planned and produced the annual Veteran's Day Program at West District School. And he served as West District's ''lead teacher'' for more than 8 weeks during the prolonged illness of the principal. Mr. Joslyn's influence on the school body and fellow members of the faculty has been tremendous. He has shared his artistic skills to enhance the school building, designing a display case, memorial benches, banners as well as the school's letterhead and note cards and a memorial sculpture. While everyone at West District School will miss Mr. Joslyn's leadership and artistic insight, we take comfort in the knowledge that the students at Farmington's new 5–6 school will benefit from his talents and abilities.

Mrs. Terry Werden has been with West District School for 34 years, serving as the Science Resource Teacher for 13 years. She served as an outdoor educator, organized the ''Kids and Chemistry'' nights for several years and introduced the ''Invention Convention'' the West District School's Grade 5. She also has given her time as an active member of the Farmington Education Association, and as a member of curriculum teams for writing, science and social studies. She currently has three students whose parents she also taught in the Farmington School system. Mrs. Werden is a dedicated public servant and her influence has been strongly felt throughout West District School and the families it serves. Her presence within our walls will be greatly missed, as she moves on to teach at Farmington's new 5–6 school.

These three educators have served on the same team for a quarter of a century. Combined, their efforts have amounted to 93 years of service at the West District School. The children, parents and families whose lives have been touched by their expertise and dedication can never forget the example of public service these three outstanding educators have set. I wish them well in all their future endeavors.

THE RECOGNITION OF DR. SIDNEY PESTKA, 2001 NATIONAL MEDAL OF TECHNOLOGY LAUREATE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. PALLONE. Mr. Speaker, I'd like to take this opportunity to congratulate Dr. Sidney Pestka who was named the 2001 National Medal of Technology Laureate for his pioneering achievements in the field of biotechnology. Dr. Pestka is from my district and joins us from the Robert Wood Johnson Medical School at the University of Medicine & Dentistry of New Jersey in Piscataway, New Jersey.

Mr. Chairman, in 1969, Dr. Sidney Pestka began a project to determine what interferon was—a substance that held the possibility of curing viral diseases, diseases that defied treatments, diseases that challenged the ingenuity of medicine for centuries, diseases including hepatitis, influenza, Ebola, Dengue, Yellow Fever, West Nile, and even the common cold. The possibility that a single medicine could treat all or at least many viral diseases was alluring. After a few months evaluating the scientific basis and potential of interferon, Dr. Pestka began to translate this dream into reality.

For the next seventeen years, Dr. Pestka made a remarkable series of discoveries and developments, often bucking prevailing beliefs and designing innovative solutions to problems along the way to success. His achievements carried out at the Roche Institute led to numerous medical applications including cloning of the human genes, development of immunological assays with monoclonal antibodies and medical application of interferon for viral diseases, to name only a few. In 1986, Dr. Pestka's dreams became reality when the Food and Drug Administration (FDA) approved the interferon that he developed.

The approval of interferon by the FDA was significant, not only because it allowed Dr. Pestka's development to be applied to treat viral diseases but also because it prepared the pathway for many other biotherapeutic agents now used in the clinic and stimulated the creation and development of today's extensive biotechnology industry. Dr. Pestka's achievements are the basis of several U.S. and foreign patents and interferon is now a major product of several U.S. and foreign companies. The market for interferon is expected to exceed $7 billion by 2003.

In addition to interferon's commercial impact, there was no general antiviral therapy available before Dr. Pestka began his work on interferon; today, interferon is the first and only general antiviral therapy. Interferon is used to treat hepatitis B and C, diseases that afflict 300 million people worldwide. Today, interferon is used for the treatment of cancers such as metastatic malignant melanoma, kidney and bladder cell carcinoma, some leukemias, AIDS-related Kaposi's sarcoma, and multiple sclerosis. Mr. Chairman, many individuals are now alive and well after treatment with interferon as a result of Dr. Pestka's achievements.

Finally, Mr. Chairman, I'd like to point out that the potential of interferon has caught the imagination of the public with many newspaper, magazine and journal articles about interferon over the past twenty years. Most scientists in academia do not bring achievements in research directly into commercial products with special considerations for scale up, environmental impact, economy, efficiency and efficacy. Dr. Pestka has bridged this gap by making seminal achievements in all these avenues from concept, to basic research and to practical application. He has fostered new industries in multiple areas, developed new medicines for previously untreatable diseases, and brought new hope to those afflicted. These pioneering achievements were prefaced and followed by many other basic scientific discoveries in chemistry, biochemistry, genetic engineering and molecular biology from the genetic code and protein biosynthesis to interferons, cytokines, receptors and cell signaling.

In closing, Dr. Pestka's achievements in innovation and translation provide a role model for this and future generations.

TRIBUTE TO MARATHON GIRLS FIELD HOCKEY TEAM

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. WALSH. Mr. Speaker, I rise today to congratulate the Marathon High School Girls Field Hockey Team for winning their fourth consecutive Class D New York State Championship. The MHS Girls Field Hockey team, coached by three-time New York State Championship Coach Karen Funk, finished the year with an unprecedented (24–0) season while also receiving the New York State Scholar/Athlete Team Award by maintaining a team average of 94.5.

The Lady Olympians scored a total of 127 goals this season while only allowing 6 goals against them which contributed to 18 total shutouts this season. In addition to their outstanding season, MHS had two National All American players and two All State Players. With a combination of hard work and determination the MHS Girls Field Hockey Team

has established a dynasty within the realms of Girls Field Hockey.

On behalf of the residents of the 25th Congressional District, it is my honor to congratulate the Marathon High School Girls Field Hockey team and their coach Karen Funk on their Class D New York State Girls Field Hockey Championship. With these remarks, I would like to recognize the following players and staff: Coach—Karen Funk, Scorekeeper—Jenelle Dayton, Alexandra Askew, Brooke Atwood, Nikki Biliings, Amanda Bliss, Danielle Braman, Lauren Brooks, Nicole Dann, Danielle Dayton, Danielle Diaz, Heather Doran, Alissa French, Lisa Gilbert, Jamie Gofgosky, Jessica Gofgosky, Eileen Hoyt, Maranda Kinsman, Tiffany Marsh, Jolene Phillips, Allison Robertson, Jacki Rose, Shira Thomas, and Kaitlin Veninsky.

Congratulations to all.

A TRIBUTE TO LENFORD L. ROBINS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. TOWNS. Mr. Speaker, I rise today in honor of Lenford L. Robins, a leasing representative and a fine individual.

Currently the Founder and Chairman of Bridgeport Capital Resources Inc. Mr. Robins attended St. George College in the West Indies and subsequently worked as a law clerk in the Criminal Justice System, Sutton Street Court Division, Kingston, Jamaica, and immigrated to the United States in 1969 to further his studies. In the United States, he attended New York School of Dentistry and Brooklyn Community College, where he received his degree in Orthodontic Dentistry. He went on to invent the ''Tooth Aligner,'' commonly known as the ''Spring Retainer,'' which is used in all dental practices globally.

In 1973, Mr. Robins changed his career path and pursued corporate financing. He became a member of the ''Elite Clout Club'' of First Investor Investment Corporation, and joined Ford Motor Credit from 1976 to 1979, where he was trained as a representative. He has worked as a Leasing and Credit manager for Toyota Motor Credit, Honda, Volkswagen, and BMW, and has received several awards for his outstanding performance and contributions in the leasing industry.

Mr. Robins has also served as the Director of Leasing for Emar International and Reserve Lease Systems, as the President of Leasing Research International, and as the Director of International Markets for Blockwell Funding Corporation. He has also headed the International Division for GFI Business Capital. In each of these capacities, he has used his expertise to train others, and has been recognized and respected by his peers. As proof of his prominence, Mr. Robins has been interviewed on the Bill McCreary Report on Fox Channel 5 Television and CNBC Television, and has been written about in several newspapers and magazines. He is also the author of ''The Advantages of Leasing.''

I would like to commend to my colleagues' attention the many achievements of Mr. Lenford L. Robins, a true expert in equipment leasing.

ARTICLE BY GEOFF D. PORTER

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. KLECZKA. Mr. Speaker, I submit for the record a June 1 New York Times op-ed by Geoff D. Porter, a professor of Middle Eastern studies who expresses frustration at what he says is a slow and ineffective means by which the Federal Bureau of Investigation has been trying to recruit those proficient in Arabic. Since his insight as to the need for experts in the various dialects makes a compelling argument, I've also forwarded a copy of the article to FBI Director Robert Mueller.

I thank my friend, Professor David Randall Luce of the University of Wisconsin-Milwaukee for bringing this article to my attention.

[From the New York Times, June 1, 2002]

LOST IN TRANSLATION AT THE F.B.I.

(By Geoff D. Porter)

In announcing his restructuring of the Federal Bureau of Investigation, Robert S. Mueller III, its director, stressed the importance of upgrading the F.B.I.'s intelligence capabilities by recruiting ''the right people with the right experience.'' If my own experience with the agency is any guide, that should include an urgent recruiting drive for people with the right Arabic language skills.

Less than a week after the attacks on the World Trade Center and the Pentagon, I responded to the F.B.I.'s calls for Arabic translators. I know of a half-dozen other Middle Eastern studies graduates who also applied—Ph.D.s who, like me, are proficient in one or more Arabic dialects, as well as in Modern Standard Arabic. Ultimately—dismayed by what seemed to us the agency's flawed understanding of what proficiency in Arabic means—none of us pursued our candidacies.

I applied less than a week after Sept. 11 but wasn't called for the four-and-a-half hour translation test until January. It wasn't until February that I sat for a four-hour interview and polygraph test. The F.B.I. was then to begin a six- to eight-month background check. At the earliest, I might have started translating more than a year after I applied.

The slow pace, however, wasn't the most unsettling characteristic of the process. There was something more worrisome: The F.B.I.'s Arabic translation test simply does not measure all the language skills needed for intelligence gathering focused on Arabic speakers.

The Arabic-language test—copyrighted in 1994 by the Defense Language Institute, according to the back of my exam booklet—was solely in Modern Standard Arabic, the Arabic most frequently studied at American universities. This is the form used for official speeches and in the news media in Arab countries—but almost never in conversation. It differs substantially from the spoken varieties of Arabic in vocabulary, syntax and idioms—enough so that a non-native speaker who learned only Modern Standard Arabic would not be able to understand Arabic speakers talking to one another.

The regional dialects also differ from one another—varying considerably from one end of the Arabic-speaking world (in Morocco) to the other (in Oman). The dialects are, for some Arabic speakers, mutually unintelligible. (Once, I mistakenly gave a Cairo taxi driver directions in Moroccan Arabic, and he responded: ''Ich spreche kein Deutsch.'')

These varieties of Arabic are the language of the market, the home and the street for the world's 200 million Arabic speakers. Yet no colloquial Arabic, in any dialect, appeared anywhere on the F.B.I.'s Arabic translation test, which included a listening-comprehension section.

During my post-exam interview, I tried to offer some feedback about the test's failure to measure skills in everyday spoken Arabic, but the interviewer brusquely moved on to his next question. Nor was there a chance for me to name the two Arabic dialects in which I am proficient. The interview is scripted; there is no room for unscripted interaction. All the other Middle East studies applicants with whom I spoke said they, too, noticed the test's shortcoming but couldn't find an opening to comment on it.

As the F.B.I. reorganizes, it should improve its recruitment of Arabic translators by adding tests that measure fluency in one or more of these numerous Arabic dialects. Otherwise, its translators may be limited to reading Arabic newspapers or listening to Al Jazeera broadcasts. They may misunderstand wiretapped phone conversations or be unable to identify crucial information. Until the F.B.I. shows more willingness to listen to the experts it is trying to attract, it will not get the expertise it needs.

CONTINUATION OF RACIAL DISCRIMINATION

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. THOMPSON. Mr. Speaker, I rise today to bring attention to racial discrimination which continues to be a problem in America. Recently, in my home state of Mississippi, more specifically, Brandon, Mississippi, a couple was discriminated against while trying to buy a home. Mr. and Mrs. Michael Keys, an African-American couple, were attempting to purchase a home in Brandon when they were harassed verbally by a neighborhood resident, Chris Hope. Hope threatened the safety of the Keys' children after asking them why did they want to stay in a white neighborhood.

Mr. Hope was later subpoenaed when the Department of Housing and Urban Development filed charges on behalf of the Keys, who filed a housing discrimination complaint. Mr. Hope was later ordered to pay $146,000. Hope is to pay $126,000 to the Keys for damages and $8,140 to their real estate agent. He has to also pay $11,000 in civil penalties.

Mr. Speaker, HUD released a statement saying that, ''racial discrimination will not be tolerated''. I strongly support that statement. Discrimination is too often overlooked because it is thought of as a topic of the past. This story reinforces my belief that racial discrimination still exist. We must respond accordingly to discrimination cases.

A familiar document that we know as The Declaration of Independence states that ''We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.'' Racial discrimination is not only a moral injustice but it is also a legal injustice.

PROPOSING A TAX LIMITATION AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

SPEECH OF

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 2002

Mr. HASTINGS of Florida. Mr. Speaker, I rise to make a speech that I should not have to make. I rise to discuss a constitutional amendment that should not have made it to this floor. In short, this debate is a waste of my time, your time, and the American taxpayer's money.

Let me be more specific. H.J. Res. 96, the Tax Limitation Constitutional Amendment, has been brought to the House floor for a vote seven times in the past seven years. Each time, year after year, it has failed to gain the ⅔ majority needed to pass. I expect that this year will be no different.

But let's suppose that this year is different. Let us imagine that some of us decide to give in to political expediency and decide to vote for a constitutional amendment that will impair our legislative duty to determine the proper tax rate for the American people and for our government. Would it pass the other body? Undoubtedly, no. Would it pass the state legislatures? Doubtful.

Why then do the Republicans continue to bring this legislation to the floor? Do my colleagues on the other side of the aisle believe that we do not have more important things to talk about? That homeland security and the reorganization of our intelligence community can wait another day or even another hour for us to waste our time on this worthless amendment? That the hundreds of thousands of Americans who are out of work right now and about to run out of temporary unemployment relief can hang on a few more days while we entertain the pigheaded decision to reintroduce this legislation for the seventh time in so many years?

Maybe some of my colleagues suppose that in defiance of precedent and simple math that this amendment will miraculously pass this year? I guarantee you it will not. That said, I call on my colleagues on both sides of the aisle to vote against this amendment and to refrain from wasting our time and the time of the American people with this legislation in the future.

PERSONAL EXPLANATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mrs. MALONEY of New York. Mr. Speaker, on July 12, 2002, I missed rollcall votes No. 223, No. 224, and No. 225. Had I been present I would have voted ''Yea'' on rollcall vote No. 223, ''Yea'' on rollcall vote No. 224 and ''Nay'' on rollcall vote No. 225.

TRIBUTE TO SYRACUSE UNIVERSITY LACROSSE, 2002 DIVISION I NCAA MEN'S LACROSSE CHAMPIONS

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. WALSH. Mr. Speaker, I rise today to recognize the accomplishments of the Syracuse University Lacrosse team, the 2002 Division I NCAA Men's Lacrosse champions. On May 27th, the Orangeman won their second national title in three years. I am proud to represent this entire team of fine young men led by Head Coach John Desko and Assistant Coaches Roy Simmons III, Kevin Donahue, and John Zulberti.

Lacrosse is one of the oldest American sports, and the members of this team—have taken the game to an incredibly high level. It is no wonder that lacrosse is growing at such a rapid pace with young athletes looking up to role models such as these students, who have dedicated almost their entire lives toward mastering this sport. They have truly made their University, the city of Syracuse, and lacrosse fans nationwide, proud of their accomplishments.

It is my honor to acknowledge the following members of this team who have joined together to achieve the ultimate goal of becoming Division I National Champions: Chris Bickel, Solomon Bliss, Matt Bontaites, Andrew Boyle, Travis Bryan, Drew Bucktooth, John Burns, Josh Coffman, Nick Donatelli, John Glatzel, Kevin Gowin, Tom Hardy, Brian Herloski, Pat Hogan, Ryan Hogan, Joel Howard, Sean Lindsay, Steve Lykudis, Alex Mummolo, Brooks Neal, Brian Nee, Mike Nockunas, Kyle Olson, Jarett Park, Bill Perritt, Jay Pfeifer, Jake Plunket, Michael Powell, Dave Puccia, Joe Sabasteanski, Mike Smith, Brian Solliday, Michael Springer, Billy St. George, Andrew Starr, Steve Vallone, Donn Vidosh, Zack Wallace, Brett Walther, Spencer Wright, Alex Zink.

A TRIBUTE TO NEZAM KELVIN AND CYNTHIA HOSEIN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. TOWNS. Mr. Speaker, I rise today in honor of Nezam Kelvin and Cynthia Hosein, for their outstanding volunteer work with the 500 Block Association Community Garden and Food Pantry.

Kelvin, as he is known, and his wife Cynthia were born and raised in Trinidad, West Indies. In 1989, they moved to East New York in Brooklyn. They have two children, Princess (18) and Kelvin Jr. (13), and attend the Shepherd Home Open Bible Church.

Mr. Hosein is the President of the Euclid 500 Block Association Community Garden and Food Pantry, where both Kelvin and Cynthia volunteer. This picturesque garden is located on Euclid Avenue between Belmont and Sutter Avenue. In the spring of 2000, the Association built a basketball court behind the garden to provide neighborhood kids a recreational alternative to ''hanging out'' in the street. In addition to basketball, the site is used for regular cookouts for the kids and volunteers. In November 2000, the Association, together with Food For Survival and Green Guerillas, opened their food pantry. The number of people served, already at 440 families, increased dramatically after September 11, 2001. The line is so long, police assistance is now necessary to maintain an orderly process. Needless to say, the food pantry has had a tremendous effect on the community.

I would like to congratulate Nezam Kelvin and Cynthia Hosein, and the Euclid 500 Block Association Community Garden for their dedicated efforts in support of our Brooklyn community and I urge my colleagues to join me in honoring these dedicated community servants.

NOT IN MY NAME

HON. CYNTHIA A. McKINNEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Ms. McKINNEY. Mr. Speaker, Rita Lazar is a remarkable woman. She lost a child, a son, in the horrible attacks on the World Trade Center on September 11, 2001. But Rita Lazar remains a pacifist, dedicating her life to eradicating war all over the world. And she is brave. She wrote a letter to the New York Times, that in essence said that although she knew this country's response to 911 would be war, she and many others feel that the answer is peace. She asked, as many have asked, that this country not go to war, not in the name of her son. Not in the name of her child.

All over the world, there is a movement afloat. People are coming together to say please, please, please, do not go to war—not in my name, and not in the name of my child.

Not in My Name. Not in the Name of My Child. People are saying to governments . . . War? No, not in my name. Destruction? . . . No, not in my name. Weapons of Mass Destruction? No, not in my name. Pollution? No, not in my name.

People from every walk of life—young and old, rich and poor, gay and straight, are saying: Not In My Name.

There is an entire coalition of people who, though horribly saddened by the events at the World Trade Center, send out a mighty call for peace. The September 11 Families for A Peaceful Tomorrow have given us a powerful message—they want a world in which no one, no child, no son, no father, no husband, no wife, no mother, no loved one has to suffer the horror of losing a family member in the name of war. Their bravery is a reminder of our duty towards making the world in which we live one of peace. If you go to their website at peacefultomorrows.org, you will see a quote from Martin Luther King Jr., that says, ''Wars are poor chisels for carving out peaceful tomorrows.'' These people, these brave and suffering souls, have lost sons and daughters and husbands and fathers and wives and mothers to the 911 attack, and yet, miraculously, they are saying, don't go to war, not in the name of our loved ones, Not in the Name of My Child.

Among them are Phyllis and Orlando Rodriguez, who lost their only son Greg at the World Trade Center. The Rodriguez' also sent

a letter to the media with the headline, ''Not in Our Son's Name.'' They pleaded for a peaceful solution to this conflict, and they are joined by thousands upon thousands of people all over the world, as witnessed by the huge rally in Washington, DC on April 20 2002, where an estimated two hundred thousand people called out for an end to war.

And this cry is deepening, from a cry against war to a cry against injustice everywhere.

People all over America are saying that they don't want American corporations stealing the resources of other countries and destroying the forested lands and waters of this country—not in their name.

Israeli settlers have a peace group called Not in My Name. They are saying to the Israeli government, yes, we want a home, yes, we want a safe place to be, but not through violence and destruction and terror. They are saying to the Israeli government—don't take land from Palestinians, don't destroy their infrastructure, don't take their homes, don't destroy their family structures and their communities and their neighborhoods. Not in My Name, Not in the Name of My Child.

Why is this Not in My Name movement growing? Because when all is said and done, people all over the world, rich and poor, old and young, want to do what is right. Americans want to do what is right. People know it is wrong for destruction to occur in their name. Not in My Name. Not in the name of my child. It's like saying to a murderer—''Don't kill for me,'' It's saying to those who pollute our waters, Not in my Name. It's saying to those who destroy the economy of other countries—Not in my name, not in the name of my child.

Americans are gathering the courage to just say no. We are saying no to addictive lifestyles, addictive consumerism. We are saying no to wars and corporate takeover and the IMF loans that gobble up people and their resources.

And all over the world, people are saying, if you are committing these acts in my name, then don't. If you are committing these acts—waging war on the innocent, destroying the environment, buying bombs when babies need bottles . . . then don't do it for me. Not in My Name, Not in the Name of My Child.

Americans want peace, and justice and to live up to the conscience of its forbears. So we are joining people of good will around the world who say, Not in My Name, Not in the Name of My Child. Not in My Name, Not in the Name of My Child. Not in My Name, Not in the Name of My Child. Not in My Name, Not in the Name of My Child. Not in My Name, Not in the Name of My Child. Not in My Name, Not in the Name of My Child. Not in My Name, Not in the Name of My Child.

TRIBUTE TO THE BOROUGH OF ESSEX FELLS

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Borough of Essex Fells and its residents on the occasion of its Centennial celebration.

Essex Fells, which was incorporated as a municipality by the New Jersey State Legislature on March 21, 1902, is the smallest municipality in Essex County, measuring a mere 1.6 square miles. Despite its size, the borough is home to some of the friendliest people, the loveliest homes, and gardens in New Jersey.

In the 18th and 19th centuries, the wooded hills and valleys that now comprise the municipality were sparsely settled, with only seven or eight farms located along what is now known as Roseland Avenue.

The expansion of the railroad system and improvements in other forms of transportation brought about the development of real estate in areas surrounding large cities. This resulted in the development of a community that would come to be known as Essex Fells.

Anthony Drexel, a prominent developer and planner from Philadelphia, had a vision and dream to build a unique community with beautiful homes situated in a rustic area of New Jersey. In 1888 he sent his representative, Charles W. Leavitt, to survey the situation around the extension of the railroad service in the Caldwells.

Following a report that the location seemed ideal for use as a high-level residential community, Mr. Drexel formed the New York Suburban Land Company in 1889 and purchased one thousand acres of land south of Caldwell. Included in part of the purchase were the land and the historic home of General William Gould, which became the home of the land company's new president, Mr. Leavitt. The majority shareholder in the corporation was John R. Fell, Mr. Drexel's son-in-law.

The hilly and rocky terrain made an imaginative and skilled approach to the planning necessary. To lay out an over-all community concept, Mr. Drexel hired well-known landscape architect Ernest W. Bowditch.

As this new area began to be developed and built, it was fortunate enough to be able to install such technological advances as electricity, in-door plumbing, and telephones, conveniences that are commonplace one hundred years later—but were true innovations then!

Essex Fells was given its name in honor of the county in which it was developed, Essex, and because the word ''fell'' suggests a rolling, hilly area, although Mr. Fell must have had some input into the name Essex Fells!

Throughout the past one hundred years not much about the character of Essex Fells has changed from the original concept of a residential rustic community. Today, the municipality is home to over 2,100 residents, a very small number by New Jersey standards, the Essex Fells Water Company, a public elementary school, a post office, and a park.

Mr. Speaker, this weekend the fine neighbors of Essex Fells will be joining together for a parade and community picnic to celebrate this auspicious occasion. I urge you and all of my colleagues to join Mayor Edward Abbot, Borough Council members James N. Blake, Rupert Hauser III, James W. Irwin, Julianne H. Rose, Thomas St. John, and, Lynda Youngworth, and the Citizens of Essex Fells in wishing them well during this special anniversary year.

HONORING THE 50TH ANNIVERSARY CELEBRATION OF ST. ANTHONY OF PADUA PARISH

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. TOM DAVIS of Virginia. Mr. Speaker, I would like to take this opportunity to honor the 50th anniversary of the establishment of St. Anthony of Padua Parish in Falls Church, Virginia.

Since holding its first Mass on Easter Sunday, 1952, St. Anthony's has profoundly impacted its congregation, students, and the community at large. Today the miulti-ethnic parish continues to flourish while upholding a strong tradition of excellence in both the Catholic Christian ministry and community service. The accomplished past of the church has been characterized by generous contributions to local worship, education, and medical care. St. Anthony's sizeable and multifaceted endeavors have been remarkably effective.

In 1954, the church established St. Anthony's School, which now enrolls 620 students in grades pre-kindergarten through eighth. This notable commitment to education is further reflected in the valuable resources the church has made available to its community. These range from a religious education program for public school students to a computer-training course for adults. A partnership with Fairfax County and the Hispanic Committee of Virginia in a Day Laborers' Program highlights the church's dedication to improving education.

St. Anthony's has undertaken substantial initiatives in improving local health care by providing a mobile mammogram van, running Alcoholics Anonymous groups, and offering 24-session parenting classes. Additionally, the church co-sponsors quarterly health fairs with organizations such as the National Institutes of Health, whom they further assist in conducting bone-marrow screenings.

The Parish also has made strides in emergency assistance. St. Anthony's has relieved many people facing hardships by helping with medical costs and utility payments. The establishment of ''Mary's House'' enabled the church to aid single homeless mothers by providing them a caring environment. Moreover, St. Anthony's offers services such as counseling, tax assistance, Thanksgiving dinner, and the collection of Christmas gifts to those in need.

With all of these accomplishments, there is great reason for St. Anthony's and its community to celebrate. Accordingly, Mr. Speaker, I extend my warmest congratulations on their 50th Anniversary. The Parish most certainly has distinguished itself through its devotion to community service, and I call upon my colleagues to join me in applauding 50 years of excellence.

PROPOSING A TAX LIMITATION AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

SPEECH OF

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 2002

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to oppose H.J. Res. 96, Tax Limitation Constitutional Amendment. There are three key points that are relevant to this constitutional amendment:

This Constitutional Amendment states that any bill changing the internal revenue laws will require approval by two-thirds of the Members of both the House and Senate.

A Constitutional Amendment must pass both houses of Congress by a ⅔ vote before it is passed onto the states for ratification.

Adoption of the 16th amendment in 1913 first allowed direct taxation of the American people by the federal government.

The underlying legislation of H.J. Res. 96, is an attempt to help the most well to do Americans through a constitutional amendment that limits the ability of Congress to raise taxes and cut deficits. It is no secret that this legislation is designed to disproportionately help the richest people in this country.

H.J. Res. 96 could make it difficult to maintain a balanced budget or to develop a responsible plan to restore Medicare or Social Security to long-term solvency. H.J. Res. 96 is a resolution proposing an amendment to the Constitution of the United States of America with respect to tax limitations, that would require any bill, resolution, or other legislative measure changing the internal revenue laws require for final adoption in each House the concurrence of two-thirds of the Members of that House voting and present, unless the bill is determined at the time of adoption, in a reasonable manner prescribed by law, not to increase the internal revenue by more than a de minimis amount.

By requiring a two-thirds supermajority to adopt certain legislation, H.J. Res. 96 diminishes the vote of every Member of the House and Senate, denying the seminal concept of ''one person one vote''. This fundamental democratic principle insures that a small minority may not prevent passage of important legislation. This legislation presents a real danger to future balanced budgets and Medicare and Social Security.

Under H.J. Res. 96, it would be incredibly difficult obtaining the requisite two-thirds supermajority required to pass important, fiscally responsible deficit-reducing packages. And at a time in our history when the Baby Boomers are now retiring, H.J. Res. 96 could make it more difficult to increase Medicare premiums for those most able to pay their fair share of the bill, and could make it difficult balancing both Medicare and Social Security payroll taxes in the long term.

H.J. Res. 96 would make it nearly impossible to plug tax loopholes and eliminate corporate tax welfare, or even to increase tax enforcement against foreign corporations. H.J. Res. 96 would also make it nearly impossible to balance the budget, or develop a responsible plan to restore Medicare or Social Security to long-term financial solvency.

I am deeply troubled by the concept of divesting a Member of the full import of his or her vote. As Professor Samuel Thompson, one of this Nation's leading tax law authorities, observed at a 1997 House Judiciary Subcommittee hearing on the same proposal: ''the core problem with this proposed Constitutional amendment is that it would give special interest groups the upper hand in the tax legislative process.''

By requiring a supermajority to do something as basic as getting the money to run government, H.J. Res. 96 diminishes the power of a member's vote. It is a diminution. It is a disparagement. It is inappropriate, and the fact that this particular amendment has failed seven times in a row suggests that Congress knows it.

H.J. Res. 96 will also make it nearly impossible to eliminate tax loopholes, thereby locking in the current tax system at the time of ratification. The core problem with this proposed constitutional amendment is that it would give special interest groups the upper hand in the tax legislative process. Once a group of taxpayers receives either a planned or unplanned tax benefit with a simple majority vote of both Houses of Congress, the group will then be able to preserve the tax benefit with just a 34 percent vote of one House of Congress.

In addition, H.J. Res. 96 would make it inordinately difficult to make foreign corporations pay their fair share of taxes on income earned in this country. Congress would even be limited from changing the law to increase penalties against foreign multinationals that avoid U.S. taxes by claiming that profits earned in the U.S. were realized in offshore tax havens. Estimates of the costs of such tax dodges are also significant. An Internal Revenue Service study estimated that foreign corporations cheated on their tax returns to the tune of $30 billion per year.

Another definitional problem arises from the fact that it is unclear how and when the so-called ''de minimis'' increase is to be measured, particularly in the context of a roughly $2 trillion annual budget. What if a bill resulted in increased revenues in years 1 and 2, but lower revenues thereafter? It is also unclear when the revenue impact is to be assessed, based on estimates prior to the bill's effective date, or subsequent determinations calculated many years out. Further, if a tax bill was retroactively found to be unconstitutional, the tax refund issues could present insurmountable logistical and budget problems.

I hope that my colleagues take seriously the path H.J. Res. 96 would lead us down were it to be adopted as is, therefore, I urge my colleagues to oppose H.J. Res. 96.

PROPOSING A TAX LIMITATION AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 12, 2002

Mr. UDALL of Colorado. Mr. Speaker, already this year is nearly half gone. But more than half our year's work remains undone—including consideration of the President's proposal to establish a new Department of Homeland Security. If we are to complete the year's work on time, we need to put every day to good use. But that's not what we are doing today.

Instead, today the House is again considering a proposed constitutional amendment that was debated, and that failed of approval, just last year. I think that is a waste of time, especially since the proposal does not deserve to pass.

I'm not a lawyer, but it's clear that the language of the proposal is an invitation to litigation—in other words, to getting the courts involved even further in the law-making process. To say that Congress can define when a constitutional requirement would apply, provided that the Congressional decision is ''reasonable,'' is to ask for lawsuits challenging whatever definition might be adopted. Aren't there enough lawsuits already over the tax laws? Do we need to invite more?

But more important than the technical aspects of this proposal, I think it is bad because it moves away from the basic principle of democracy—majority rule.

Under this proposal, there would be another category of bills that would require a two-thirds vote of both the House and the Senate.

That's bad enough as it applies here in the House, but consider what that means in the Senate. There, if any 34 Senators are opposed to something that take a two-thirds vote, it cannot be passed. And, of course, each state has the same representation regardless of population.

Consider what that means if the Senators in opposition are those from the 17 States with the fewest residents.

Looking at the results of the most recent census, the total population of the 17 least-populous states is about 21 million people.

That's a respectable number, but remember that the population of the country is more than 280 million.

So, what this resolution would do would be to give Senators representing about 7 percent of the American people the power to block some kinds of legislation—even if that legislation has sweeping support in the rest of the country, even if it had passed the House by an overwhelming margin, and even if it was responding to an urgent national need.

Right now, that kind of supermajority is needed under the constitution to ratify treaties, propose Constitutional amendments, and to do a few other things.

But this resolution does not deal with things of that kind. It deals only with certain tax bills—bills that under the constitution have to originate here, in the House. Those are the bills that would be covered by this increase in the power of Senators who could represent such a very small minority of the American people.

Why would we want to do that? Are the proponents of this constitutional amendment so afraid of majority rule? Why else would they be so eager to reduce the stature of this body, the House of Representatives, as compared with our colleagues in the Senate?

Remember, that's what this is all about—''internal revenue,'' however that term might be defined by Congress or by the courts. When Congress debates taxes, it is deciding what funds are to be raised under Congress's Constitutional authority to ''pay the debts and provide for the common defense and general welfare of the United States.'' Those are serious and important decisions, to be sure, but

what is wrong with continuing to have them made under the principle of majority rule—meaning by the members of Congress who represent the majority of the American people?

So, Mr. Speaker, I cannot support this proposed change in the Constitution. Our country has gotten along well without it for two centuries. It is not needed. It would not solve any problem—in fact, it probably would create new ones—and it would weaken the basic principle of democratic government, majority rule. It should not be approved.

IN HONOR OF YONG SOO JUN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. TOWNS. Mr. Speaker, I rise today to recognize Yong Soo Jun, who has actively promoted the interests of Korean-American entertainers.

Mr. Jun, who currently lives in Fresh Meadow, New York, moved to New York from Chicago in 1980, and immediately became affiliated with the Korean American Entertainers Association, which at the time, had about thirty members. Over the next six years, Mr. Jun participated in and helped organize many charitable events and performances for the Korean community throughout New York and New Jersey.

In 1986, for business purposes, Mr. Jun moved to Virginia, and spent the next ten years traveling from state to state. During this time, Mr. Jun constantly organized and participated in numerous events, bringing smiles to the faces of virtually everyone with whom he came into contact.

Upon his return to New York in 1996, Mr. Jun picked up where he left off. He immediately resumed his activity with the Korean American Entertainers Association, which by then had increased its membership to about 100, and became President of the organization in 2001. As President, Mr. Jun met Reverend Solomon Y. Kim, the pastor of the Mirral Church, in the Bensonhurst section of Brooklyn. Their collaboration has produced many special events, including a performance at Brookdale Hospital's Shulman Institute Nursing Home, and charity events for children with leukemia. A devoted husband and father, Mr. Jun used to view receiving an applause after one of his performances as his ultimate goal, but has found another calling in life in helping others in need.

Therefore, I would like to acknowledge Mr. Yong Soo Jun for his accomplishments and volunteer work for the communities of New York.

TRIBUTE TO CITY OF WESTMINSTER FOR DISTINGUISHED LOCAL GOVERNMENT AWARD

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to the city of Westminster, Colorado. This outstanding community was recently recognized at the 40th Annual Excellence in Government Awards Program hosted by the Denver Federal Executive Board as the recipient of the Distinguished Local Government Award.

Westminster, in the Congressional District I am proud to represent, has used the concept of ''Improvement through Cooperation'' as it strives to improve local services through a series of innovative intergovernmental cooperative agreements with local, state and federal government partners.

The City has taken a leadership role in providing strong, representative management on complex issues that affect citizens living in Westminster and surrounding communities. Westminster led the way in 1980, bringing the cities of Thornton and Northglenn and other stakeholders to set up a water-monitoring program that led to The Clear Creek Watershed Management Agreement in 1994. Over a period of 20 years the original agreement has been expanded to more than 23 entities that benefit from this successful watershed-monitoring program. Water quality has been improved and enhanced and many ancillary groups help in the sampling efforts, sample collection and quality assurance.

In 1986 Westminster negotiated a first of its kind Intergovernmental agreement with the city of Thornton to address the development of the Interstate 25 corridor to make a commitment to study and plan for orderly growth and development. The goal was to simplify governmental structure and reduce and avoid friction between the two cities. This groundbreaking agreement crafted a joint land use plan, established annexation and service areas and revenue sharing.

In 1997, Westminster led the way again by taking the leadership on a second intergovernmental agreement with the cities of Broomfield and Thornton to study additional highway interchanges on Interstate 25 as the traffic impacts continued to grow. New intergovernmental agreements were signed, original agreements were amended to meet current needs and the citizens of these communities have highway corridors that are designed to address traffic demands.

Water rights and water quality are concerns for every western city. In a state with limited supplies and an expanding population, carefully negotiated water agreements are critical to limiting legal disputes and preserving financial resources. Fourteen years ago, Westminster provided regional leadership when it signed the Clear Creek Water Quality Agreement with three neighboring cities and the Coors Brewing Company. Citizens have cleaner, more abundant supplies of water and can be proud of the sophisticated legal agreement that has served the partnership for more than a decade.

Regional parks, libraries and recreation facilities have all been enhanced by cooperative agreements with neighboring cities and educational institutions. Strong intergovernmental agreements expand services for local residents in several communities. New golf courses, fitness centers, ice skating arenas and parks with campsites, hiking trails, campgrounds and water recreation all provide exceptional leisure time activities.

On a personal note, I have, on my own, ''adopted'' a section of the Dry Creek open space in Westminster as a way to help maintain the quality of life and the environment of this community. Through these efforts, along with many volunteers, I have witnessed firsthand the pride that the citizens of this city have for their community and its environment. This dedication has also been manifest in the City's extensive oversight of the cleanup of the Rocky Flats facility, a former nuclear weapons production facility that exists just west of Westminster. The City was one of the first to suggest that this site be converted into a national wildlife refuge once it is cleaned and closed.

Westminster continues to find innovative ways to partner with private corporations, sister communities, public officials and local citizens to bring a superior quality of life to its residents. I applaud Westminster for the outstanding examples of cooperative agreements that have been instituted and look forward to their continued success on behalf of the Coloradans they serve.

COMMEMORATING HARRIS COUNTY SHERIFF'S DEPUTY SHANE BENNETT

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. GREEN of Texas. Mr. Speaker, I rise this evening to honor the memory of a brave law enforcement officer, Harris County Sheriff's Deputy Shane Bennett. Deputy Bennett was killed early Wednesday morning, as he and two other deputies charged into a home and stopped a robbery and assault on an innocent family.

He and his fellow officers were summoned by a 911 call from a teenaged girl. Five gang members had broken into their house, and were in threatening the ten people inside with guns. Tragically, it appears that they had made a mistake, since they were demanding jewelry, money, and drugs, none of which these innocent people possessed.

While only two members of the family were shot, a woman of 22 and her 3 month old son, the outcome could have been much worse if the officers had not arrived and come to the family's rescue.

These assailants were all members of the Latin Kings street gang, and two of them had criminal records, including weapons possession charges. Two of them were killed by the officers, and the rest were tracked down and captured by an intensive manhunt through the nearby woods and homes by officers from a half-dozen local police agencies.

After hearing of the shooting, law-enforcement officers from all over the Houston area gathered at Memorial Hermann Hospital, prepared to roll up their sleeves and give the gift of life for their brother in arms.

Sadly, as they arrived, they were met with the news of Deputy Bennett's death, and could do nothing but comfort his family, and each other.

Shane Bennett, 29 years old, was a member of the class of 1990 at Spring High School, in north Harris County. He had been patrolling the second patrol district, which covers 300 square miles of unincorporated Harris County, since 1997.

His colleagues remember him as a dedicated officer, who loved his job. He was

known for his eagerness to combat the drug trade in this area, and was often involved in breaking up meth labs, a dangerous job due to the volatility of the chemicals used in the process.

Ed Christensen, president of the Harris County Deputies' Association, remembered him as a tireless and hardworking officer. He also said, ''Shane died a hero. What would have happened if he hadn't been there? He laid down his life and gave the ultimate sacrifice. He absolutely laid down his life for his fellow man.''

Deputy Bennett is survived by his wife, Teresa, and his 20 month old daughter, Alyssa. According to reports, as he lay mortally wounded, the name of the young girl who will never know her father was the last words he was able to speak.

We are indebted to Shane Bennett for his courage, and we share the grief of his family and offer kind words, knowing that it is a poor substitute for their loss.

Every day, ordinary men and women make an extraordinary commitment when they put on the badge that symbolizes the oath they took to protect and serve, the badge that also makes them a target. Every day, they leave their families behind, not knowing if they will come home that night.

Congress should continue to make sure that we keep our commitment to the law enforcement by providing funding for more officers, better equipment, and advanced training. It not only saves the lives of officers, but it makes our families, our homes, and our neighborhoods a safer place to live.

HONORING SUFFOLK COUNTY OFFICERS AND LOIS APRILE AND DENISE BRENNAN

HON. FELIX J. GRUCCI, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. GRUCCI. Mr. Speaker, today I rise to honor Suffolk County Officers Lois Aprile and Denise Brennan who have been selected as the recipients of the Rotary Club of Smithtown's 32nd Annual Peter J. Biegon Award.

Police Officers Aprile and Brennan were appointed to the Suffolk County Police Department on January 25, 1988. After graduating from the Police Academy they were assigned to the Fourth Precinct, assuming the duty of patrol officers. Their professional association and friendship go back many years.

It wasn't long after being assigned to the Fourth Precinct that it became evident that these two energetic officers were committed to establishing programs to benefit a wide range of community interests. In recognition of these efforts, they were both assigned to the Fourth Precinct COPE Unit in 1995.

Police Officer Aprile is certified as a crime prevention officer, a school—resource officer and a DARE instructor. She is currently working toward the completion of a master's degree in counseling at C.W. Post, L.I.U. She is a member of several committees, including the Sachem Committee on Drugs, Hauppauge School District Drug Task Force and is a board member of the Smithtown Veterans Youth Program. She is also a member of the Long Island Association of Crime Prevention Officers.

She acts as a volunteer for the Boy Scouts/Cub Scouts and serves as a religion education instructor for St. Philip and James Church. She gives freely of her time to the Special Olympics, Toys for Tots and various community outreach groups.

As one of the precinct's school liaison officers she helped create a program at the Smithtown Middle School to decrease problems among students relating to theft, fighting and other misconduct.

She has been recognized as cop of the month and has received several awards from public officials for her work with the Smithtown Veteran's Youth Program.

Police Officer Brennan has received certifications as a school resource officer and crime prevention officer. She is a member of the NYS Juvenile Officers Association.

She also serves as one of our school liaison officers and sits on several committees addressing youth development and delinquency prevention programs. She is a member of the S.A.F.E. Schools Committee, Kings Park Compass, Sachem Teen Driving Committee and the Raynor Park Youth Program.

HONORING THE LIFE AND ACHIEVEMENTS OF 19TH CENTURY ITALIAN-AMERICAN INVENTOR ANTONIO MEUCCI

SPEECH OF

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 11, 2002

Mr. HOLT. Mr. Speaker, I rise in support of legislation considered by the House this week which calls attention to an under recognized historical figure, Antonio Meucci, and his work on an invention that we today know as the telephone. Mr. Meucci is a testament to the hard work and innovation that made America great.

Most Americans know the story of Alexander Graham Bell, the man given sole credit for the invention of the telephone. This resolution makes clear, though, that another man made enormous strides in laying the groundwork for the invention, an Italian immigrant by the name of Antonio Meucci.

Antonio Meucci was born near Florence, Italy, in 1808. He studied mechanical engineering at Florence's Academy of Fine Arts and then worked in the Teatro della Pergola and various other theaters as a stage technician until 1835, when he accepted a job as a scenic designer and stage technician in Havana, Cuba.

Fascinated by research, Meucci read every scientific tract he could get his hands on, and spent all his spare time in Havana on research, inventing a new method of galvanizing metals that he applied to military equipment for the Cuban government. At the same time, he continued his work in the theater and pursued his experiments.

As a result of his research, Meucci had developed a method of using electric shocks to treat various illnesses. One day, while preparing to administer such a treatment, Meucci heard his friend's voice over the piece of copper wire running between them. He realized he had stumbled onto something much more important than any other discovery he had ever made, and he spent the next ten years bringing the principle to a practical stage. The following decade was to be spent perfecting the original device.

Antonio Meucci called his work on this project, ''teletrofono.'' Meucci was unable to commercialize his invention because he did not speak enough English to navigate the American business community, and, having spent most of his life savings on his work, he was unable to raise sufficient funds to pay his way through the patent process. Instead, he had to settle for a caveat, a one-year renewable notice of an impending patent, which Meucci first filed in 1871.

While a brilliant inventor, Meucci was victim of a series of financial and personal misfortunes. A Western Union affiliate laboratory—where Meucci was keeping his models to demonstrate his work—reportedly lost his working models, and as Meucci—was subsiding off public assistance, he could not afford the $10 necessary to renew the caveat in 1874. In 1876, Alexander Graham Bell, who conducted experiments in the same laboratory where Meucci's materials had been stored, was granted a patent, and thereafter credited with inventing the telephone. Nine months later, the government moved to annul Bell's patent on the grounds of fraud and misrepresentation, which the Supreme Court remanded for trial.

Meucci died in 1889, the Bell patent expired in 1893 and the case was discounted as moot without ever uncovering the true inventor of the telephone. If Meucci were able to renew his caveat, a patent to Bell could have never been issued.

The world of science and invention is a highly competitive one, where inventors compete to make and market their discoveries. It is only right that we call attention to the work of one brilliant inventor who history has not given his proper due, and who made enormous contributions toward the invention of this device. I urge support for the bill.

RECOGNIZING WILBERFORCE UNIVERSITY PRESIDENT DR. JOHN L. HENDERSON

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. HOBSON. Mr. Speaker, I rise today to recognize the achievements of Dr. John L. Henderson, who, for the past 14 years, has served as the president of Wilberforce University, which is located in Greene County, Ohio in the 7th Congressional District.

On June 30th, Dr. Henderson will be retiring after a distinguished career in which he served at Wilberforce and in leadership positions at Xavier University, the University of Cincinnati, Sinclair Community College and Cincinnati Technical College. He also has taught education, counseling and psychology courses since 1966.

Dr. Henderson's tenure at Wilberforce has been marked by many accomplishments, not the least of which is the institution's physical growth. Some of the major facilities constructed during his tenure include: a health

and wellness center, a gymnasium/student activities center, new dormitories, a communications center and a new administration building.

As a former member of the Wilberforce Board of Trustees, I have always found Dr. Henderson to be a dedicated educator and administrator, and a true advocate for the students and faculty at Wilberforce. His professional demeanor and extensive experience in Ohio's outstanding system of higher education have always made it a pleasure to work with Dr. Henderson and I have been privileged to have been able to work on the school's behalf in the Ohio State Senate and in Congress.

Dr. Henderson's comprehensive knowledge of higher education has been recognized with his selection to leadership positions in numerous educational organizations. He is a member of: the Board of Directors of the National Association of Independent Colleges and Universities, the Council of Independent Colleges and Universities, the National Commission of Cooperative Education, the Council of Presidents of The College Fund/United Negro College Fund, Minorities in Mathematics, Science and Engineering and the Givat Haviva Educational Foundation that oversees the education of college students in Israel.

Most recently, President George W. Bush appointed Dr. Henderson to serve on the President's Advisory Council on Historically Black Colleges and Universities.

Dr. Henderson received his bachelor's degree from the Hampton Institute in 1955, and his Master's degree in Education in Counseling and Guidance from the University of Cincinnati. Dr. Henderson continued his studies at the University of Cincinnati and received his Doctorate of Education in Counselor Education.

As Ohio's Seventh District Representative to the Congress of the United States, I take this opportunity to publicly recognize Dr. Henderson and his achievements on behalf of Wilberforce University. His many contributions to the educational growth of the nation's oldest privately funded historically black co-educational institution of higher learning are noteworthy and I thank him for his service.

A TRIBUTE TO HOWARD PITSCH

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. TOWNS. Mr. Speaker, I rise in honor of Howard Pitsch in recognition of his long-term dedication to his community.

Howard is a twenty-year resident of Fort Greene who has assisted in promoting the progressive revitalization of the community. He is the chair of the Fort Greene Association, a not-for-profit organization dedicated to historic preservation, strengthening community relations and improving the quality of life and parks. In this position, he has used his professional expertise as a marketing manager for Newsweek to enhance the profile of this vital community organization.

He builds relationships with social and cultural organizations to improve the Fort Greene and Downtown Brooklyn areas. The Fort Greene Association sponsors a scholarship for a student to attend the Brooklyn Music School. The Association also works to restore Fort Greene Park and contributes to the creation of a Brooklyn Bridge Park.

As Fort Greene Association Chair, he serves as the liaison between the Association and elected officials, Community Board Two, the 88th Precinct Council and the Brooklyn Borough President's office. His ability to juggle and maintain these various relationships is a true talent.

Mr. Speaker, Howard Pitsch has dedicated himself to serving his Brooklyn community. As such, I urge my colleagues to join me in honoring this truly remarkable person.

IN TRIBUTE TO SERGEANT FIRST CLASS DANIEL ROMERO

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. UDALL of Colorado. Mr. Speaker, I rise today to pay tribute to an American hero. Sergeant First Class Daniel Romero was killed while diffusing ordinance in Afghanistan on April 15, 2002. A member of the Colorado National Guard from Lafayette, Colorado, Daniel was called to active duty following the September 11 attacks against our country.

A ten-year veteran of the National Guard, Daniel was a communications specialist in the Special Forces. He also attended jump school, language school, and paramedic school. Daniel received the highest praise from his fellow soldiers including his Master Sergeant, who said, ''I always rode him hard and every time he stepped up to the plate.'' He was sent with his unit to Afghanistan as a paramedic coordinator and ended up mastering a new communications system that had confused the rest of the unit. Daniel's versatility was just one of the traits that made him a model soldier.

Like so many of our brave men and women, Daniel left his home to defend his country. He left behind his parents Michael and Geralyn, his two sisters Stephanie and Gabrielle, and his new wife Stephanie Wendorf. To them, our humble nation thanks them and praises them, for they have paid the ultimate price in the name of freedom.

Mr. Speaker, as we are engaged in this battle to free the world from terror, I am sure that every one of my colleagues will join me in saluting Sergeant First Class Daniel Romero. His dedication and devotion to his family, his unit, and his country can serve as an example to all Americans. He is a symbol of the values that makes America great and is a testament to the spirit that will see this country through even these troubled times.

CONGRATULATING NASA AND DR. FRANKLIN CHANG-DÍAZ FOR A SHUTTLE MISSION

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. GREEN of Texas. Mr. Speaker, I rise today to congratulate NASA on the successful launch of the Space Shuttle Endeavour on June 6. This important mission has delivered the Expedition Five crew, and continues to install the Leonardo Multi-Purpose Logistics Module and the Mobile Remote Servicer Base System on the International Space Station.

This launch marks Endeavour's 18th flight and also marks the 14th shuttle flight to the space station. This launch is also historically significant because Astronaut Franklin Chang-Díaz makes a record-tying seventh flight into space. He now shares the record with Astronaut Jerry Ross.

During this mission, Astronaut Franklin Chang-Díaz, along with French Space Agency Astronaut Philippe Perrin have also preformed three scheduled spacewalks that continue the assembly of the International Space Station. These extravehicular activities mark the first time that Chang-Díaz and Perrin have been the first spacewalks for both astronauts.

Four years ago, I had the privilege of meeting and getting to know Dr. Franklin Chang-Díaz, an outstanding scientist and an accomplished astronaut. During this four year period, Dr. Chang-Díaz has accompanied me to nine middle schools in my district to talk about the importance of our national space program and to encourage students to take more math and science classes. I have also had the opportunity to visit his plasma propulsion laboratory at the Lyndon B. Johnson Space Center in Houston.

Dr. Chang-Díaz is a man of many talents. Not only is he the second human to make seven space flights, he is also currently developing the new Variable Specific Impulse Magnetoplasma Rocket (VASIMR) concept. The VASIMR prototype rocket engine is designed to shorten the trip to Mars and provide a saver environment for the crew.

Dr. Chang-Díaz has been working with scientists at NASA and the Department of Energy to develolp this project. To date, he has been able to secure just enough funding to keep the project operating. However, this project is too important to allow it to just survive. I am hopeful that NASA will quickly realize the need to have a dedicated stream of funding for the VASIMR project.

Our nation is fortunate to have such outstanding individuals, like Dr. Chang-Díaz and the other crew members, as part of our national space program. Our NASA astronauts are scheduled to arrive back to earth on Monday, June 17. At that time, I look forward to welcoming back our heros.

Mr. Speaker, I ask that my colleagues join me in congratulating Astronaut Franklin Chang-Díaz, the Johnson Space Center in Houston and everyone at NASA for a successful launch and a successful mission.

HONORING NADINE CIOFFI AND THE WILLIAM FLOYD ELEMENTARY SCHOOL

HON. FELIX J. GRUCCI, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. GRUCCI. Mr. Speaker, today I rise to honor Ms. Nadine Cioffi and the William Floyd Elementary School in Mastic Beach, New York, upon their receipt of The New York State Health Facilities Association's ''Group Volunteer of the Year'' award for 2002.

Ms. Cioffi is honored today for her unwavering commitment to the students of William

Floyd Elementary School by establishing a pen-pal club 13 years ago for her 1st, 2nd, and 3rd graders.

Every September the students of Ms. Cioffi's classes send letters to the residents of Cedar Lodge Nursing Home in Center Moriches, New York and have the opportunity to meet with their pen pals later in the year. This program has served to enrich the lives of both students and seniors alike.

The value of bringing lives together has been rich and fulfilling. Students have the opportunity to speak and listen to seniors who have much to give of themselves. Students provide company and friendship to the residents of Cedar Lodge, friendship they might not otherwise have received in their day to day lives.

Ms. Cioffi has shown a commitment to excellence and a spirit of ingenuity that has fostered a thriving relationship between her students and residents of Cedar Lodge Nursing Home. She has planted and nurtured the seeds of friendship and virtue within the budding minds of her students. I am truly touched by her devotion, and wish her success in all of her future endeavors.

CENTRAL NEW JERSEY HONORS MR. ALLEN M. SILK, ESQ.

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. HOLT. Mr. Speaker, I rise today to recognize, honor and thank Mr. Allen Silk, a dedicated advocate for abused and neglected children and their families in the Trenton/Mercer County area since 1976.

Over four separate decades, Mr. Silk has been active in helping children and families through the Mill Hill Child and Family Development Corporation. Established in 1971 as a child care center and safe haven for babies ages 2–12 months, Allen has helped to expand the center's reach tremendously. Specifically, Allen Silk has helped to expand the services of the Mill Hill Center from just sixty children to over one hundred and forty children at any given time.

Mr. Silk has also played an integral role in forming the Mill Hill Foundation, and in doing so he has aided in raising awareness and funds for the abused and neglected children at the Mill Hill Center. By increasing awareness, Mr. Silk has helped many Americans to come to terms with the reality of child abuse and neglect.

I commend Mr. Silk on the work he has done to help children and families. Mr. Silk has helped those children who do not have a chance to defend themselves from the ravages of abuse and neglect, and I am sure that Mr. Silk has helped to improve the lives of thousands of children.

Allen Silk has truly been a champion for those children and families served by Mill Hill. I am very pleased to be able to recognize his passion and devotion to helping so many people.

Therefore, Mr. Speaker, again, I rise to celebrate and honor this true New Jersey treasure. I ask my colleagues to join me in recognizing Mr. Allen M. Silk, Esq. of the Mill Hill Child and Family Development Corporation.

HONORING THE CENTENNIAL OF THE OHIO BURGEE

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. HOBSON. Mr. Speaker, I rise today to celebrate the 100th anniversary of the adoption of the Ohio state flag, which is officially and affectionately known as the Ohio burgee because of its unique swallowtail design. The Buckeye State is the only state in the union to have a flag that isn't rectangular, which is fitting, since Ohio is unlike any other state.

Cuyahoga County resident John Eisenmann designed the burgee and then transferred his rights and interests in the flag to the State of Ohio. He received a U.S. patent for his design in 1901 and the Ohio Legislature officially adopted it on May 9, 1902. Mr. Eisenmann, an accomplished architect, may have been inspired by the shapes of the guidons carried by the U.S. cavalry. The flag was intended to be first flown from the Ohio building at the Pan-American Exposition of 1901, a circumstance which also may also have contributed to its unusual shape. Mr. Eisenmann also designed the Cleveland Arcade; was instrumental in the effort to construct the Perry Victory and International Peace Memorial at Put-In-Bay, and authored Cleveland's first comprehensive building code.

The flag's large blue triangle represents Ohio's hills and valleys, and the stripes represent roads and waterways. The 13 stars grouped about the circle represent the original states of the union; the 4 stars added to the peak of the triangle symbolize that Ohio was the 17th state admitted to the union. The white circle with its red center not only represents the ''O'' in Ohio, but also suggests Ohio's famous nickname of ''The Buckeye State.''

For 100 years, the Ohio burgee has been one of the most instantly recognizable symbols of the State of Ohio. It has flown beside Old Glory on thousands of flagpoles and been carried in parades celebrating our independence, noteworthy events in state history, even at the head of columns of Ohio troops returning from conflicts overseas.

As we look forward to the upcoming Centennial of Flight celebration in Dayton and the state Bicentennial in 2003, I encourage all Ohioans to proudly display their Ohio burgee on its 100th anniversary.

A TRIBUTE TO REVEREND CRAIG B. CADDY SR.

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. TOWNS. Mr. Speaker, I rise today in honor of Rev. Craig B. Caddy Sr. and his spiritual service in the community.

Born to Lucille Atkins, Rev. Caddy began his ministry 19 years ago under the leadership and teachings of the late Rev. Dr. D.W. Batts in his native home of Bedford-Stuyvesant. He realized the needs of his community and saw the vital role that the church played in meeting those needs. In 1999, he was called to serve as the Pastor of the Friendship Baptist Church. Since then, he has built the Friendship Baptist Church into a community centered institution that provides GED preparation and testing, computer literacy, computerized bookkeeping, computer technology, introductory Spanish courses, as well as a partnership with Phoenix House of America.

Rev. Caddy is currently a board member of the NAACP, the Bedford Stuyvesant Legal Services, the State University of New York (BEOC), the Neighborhood Advisory Board, and the Community Action Board. In addition, he serves on the Chaplain Staff of the New York City Police Department and the Metropolitan Transportation Authority.

Rev. Caddy is not only a spiritual father to his community, but also the father of two children of his own, Nyesha Joy and Craig Jr.

The Bedford Stuyvesant community is blessed to have Rev. Caddy serving them. May God continue to bless him and the work that he does. I urge my colleagues to join me in honoring Rev. Craig B. Caddy Sr.

A BILL TO AMEND THE TOXIC SUBSTANCES CONTROL ACT AND THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 13, 2002

Mr. GOODLATTE. Mr. Speaker, today I join my colleague Representative PAUL GILLMOR in introducing legislation submitted by the Administration which would implement three very important international agreements involving the distribution and sale of chemicals and pesticides in international commerce.

This legislation will amend the Federal Insecticide, Fungicide, and Rodenticide Act, and the Toxic Substances Control Act in order to comply with our obligations under the Stockholm Convention on Persistent Organic Pollutants (POPs Convention), the Protocol to the 1979 Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants (LRTAP POPs Protocol), and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (PIC Convention).

Due to their unique characteristics, POPS, which include substances such as DDT, PCBs and dioxins, are chemicals of both local and global concern. POPs are toxic, persist in the environment for long periods of time, and accumulate as they move up the food chain. The United States, among the very first to call for a global POPs Convention, provided strong leadership throughout the negotiations to bring this important environmental treaty to a successful conclusion.

Likewise, the PIC procedure is designed to give participating countries in the developing world information about the risks posed by banned or severely restricted chemicals, as well as certain severely hazardous pesticide formulations.

Each of these conventions represent a well thought out and balanced approach at gaining international agreement on procedures to protect human health and the environment. I commend all of the negotiators from the

present and past administrations that worked on these agreements.

Mr. Speaker, the legislation we introduce today represents a starting point from which Chairman GILLMOR, working through his Subcommittee on Energy and Commerce, and I through mine on Agriculture, will build bipartisan legislation under which the United States would be in full compliance with our international obligations under these conventions.

I look forward to working with my colleagues, the Administration, and interested constituencies to develop this legislation and ensure that the United States continues to hold our position of leadership in developing effective, achievable and balanced international environmental policy.

Daily Digest

HIGHLIGHTS

Senate passed Suppression of Terrorist Bombings Bills (S. 1770 and H.R. 3275).

Senate

Chamber Action

Routine Proceedings, pages S5563–S5621

Measures Introduced: Four bills were introduced, as follows: S. 2624–2627. **Page S5584**

Measures Passed:

Suppression of Terrorist Bombings: Committee on the Judiciary was discharged from further consideration of H.R. 3275, to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and by 83 yeas to 1 nay (Vote No. 154), Senate passed the bill, after agreeing to the following amendment proposed thereto: **Page S5574**

Leahy/Hatch Amendment No. 3847, in the nature of a substitute. **Page S5574**

Suppression of Terrorist Bombings: Committee on the Judiciary was discharged from further consideration of S. 1770, to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and the bill was then passed, after agreeing to the following amendment proposed thereto: **Pages S5574–75**

Leahy/Hatch Amendment No. 3848, in the nature of a substitute. **Pages S5574–75**

Democratic Elections in Colombia: Senate agreed to S. Res. 283, recognizing the successful completion of democratic elections in the Republic of Colombia, after agreeing to the following amendment proposed thereto: **Pages S5617–18**

Reid (for Wellstone/Graham) Amendment No. 3849, to make certain modifications. **Page S5617**

Terrorism Risk Insurance Act: Senate continued consideration of S. 2600, to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, taking action on the following amendments proposed thereto: **Pages S5573–74, S5575–77**

Adopted:

By 81 yeas to 3 nays (Vote No. 155), Harkin/Allen Amendment No. 3838, to provide for satisfaction of judgments from frozen assets of terrorists, terrorist organizations, and State sponsors of terrorism. **Pages S5573–74, S5575**

Withdrawn:

Santorum Amendment No. 3842, to implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts. **Pages S5573–74**

Pending:

Brownback Amendment No. 3843, to prohibit the patentability of human organisms. **Page S5574**

Ensign Amendment No. 3844 (to Amendment No. 3843), to prohibit the patentability of human organisms. **Page S5574**

A motion was entered to close further debate on the bill and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Tuesday, June 18, 2002. **Page S5575**

A unanimous-consent agreement was reached providing for further consideration of the bill at 2 p.m., on Monday, June 17, 2002, and at 9:30 a.m., on Tuesday, June 18, 2002, with the time until 9:45 a.m. for debate only, prior to the cloture vote on the bill. Further, that Senators have until 3 p.m., on

Monday, to file first degree amendments; and until 9:40 a.m., on Tuesday, to file second degree amendments; and that the Senate stand in recess on Tuesday, from 12:30 p.m.–2:15 p.m., for the weekly party conferences. **Page S5618**

Nominations Received: Senate received the following nominations:

Nancy C. Pellett, of Iowa, to be a Member of the Farm Credit Administration Board, Farm Credit Administration for a term expiring May 31, 2008.

Cheryl Feldman Halpern, of New Jersey, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2008.

J. Anthony Holmes, of California, to be Ambassador to Burkina Faso. Aurelia E. Brazeal, of Georgia, to be Ambassador to the Federal Democratic Republic of Ethiopia.

W. Scott Railton, of Virginia, to be a Member of the Occupational Safety and Health Review Commission for a term expiring April 27, 2007.

Page S5621

Nominations Withdrawn: Senate received notification of withdrawal of the following nominations:

Cheryl Feldman Halpern, of New Jersey, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for the remainder of the term expiring January 31, 2004, which was sent to the Senate on November 9, 2001. **Page S5621**

Additional Cosponsors: **Page S5584**

Statements on Introduced Bills/Resolutions: **Pages S5584–S5613**

Additional Statements: **Pages S5583–84**

Authority for Committees to Meet: **Page S5617**

Privilege of the Floor: **Page S5617**

Record Votes: Two record votes were taken today. (Total—155) **Pages S5574, S5575**

Adjournment: Senate met at 9 a.m., and adjourned at 12:47 p.m., until 2 p.m., on Monday, June 17, 2002.

Committee Meetings

(Committees not listed did not meet)

NEWBORN SCREENING

Committee on Health, Education, Labor, and Pensions: Subcommittee on Children and Families concluded hearings to examine what new measures may be needed to enhance current options and awareness concerning the screening of newborns to improve detection of conditions that threaten the life and long-term health of infants, including expanding State newborn screening programs and improving information sharing among screening programs and State systems of care for children with special health care needs, after receiving testimony from Peter C. van Dyck, Associate Administrator for Maternal and Child Health, Health Resources and Services Administration, Department of Health and Human Services; Jeffrey Botkin, University of Utah School of Medicine, Salt Lake City, on behalf of the American Academy of Pediatrics and Association of Medical School Pediatric Department Chairs Society for Pediatric Research; Scott A. Rivkees, Yale University School of Medicine, New Haven, Connecticut, on behalf of the Connecticut Newborn Screening Program Genetics Advisory Committee; Bradford L. Therrell, University of Texas Health Science Center Department of Pediatrics, San Antonio, Texas, on behalf of the National Newborn Screening and Genetics Resource Center; and Jill Wood, Fairfax, Virginia.

House of Representatives

Chamber Action

The House was not in session today. It will meet at 12:30 p.m. on Monday, June 17 for morning hour debate.

Committee Meetings

No committee meetings were held.

CONGRESSIONAL PROGRAM AHEAD

Week of June 17 through June 22, 2002

Senate Chamber

On *Monday,* at 2 p.m., Senate will resume consideration of S. 2600, Terrorism Risk Insurance Act.

On *Tuesday,* at 9:30 a.m., Senate will continue consideration of S. 2600, Terrorism Risk Insurance Act, with a vote on the motion to close further debate to occur thereon.

During the balance of the week, Senate also expects to consider S. 2514, National Defense Authorization Act, and any other cleared legislative and executive business.

Senate Committees

(Committee meetings are open unless otherwise indicated)

Special Committee on Aging: June 20, to hold hearings to examine long-term care financing, 9:30 a.m., SD–628.

Committee on Appropriations: June 19, Subcommittee on Treasury and General Government, to hold hearings to examine the effectiveness of the National Youth Anti-Drug Media Campaign, 2:30 p.m., SD–192.

June 20, Subcommittee on Transportation, to hold hearings to examine Amtrak's financial condition, 10:30 a.m., SD–192.

Committee on Armed Services: June 20, to hold hearings on the nomination of Gen. Ralph E. Eberhart, USAF, for reappointment to the grade of general and to be Commander in Chief, United States Northern Command/Commander, North American Aerospace Defense Command, 9:30 a.m., SH–216.

Committee on Banking, Housing, and Urban Affairs: June 18, business meeting to mark up the proposed Public Company Accounting Reform and Investor Protection Act of 2002, 10 a.m., SD–538.

Committee on Commerce, Science, and Transportation: June 18, Subcommittee on Consumer Affairs, Foreign Commerce, and Tourism, to hold hearings to examine steroid use in professional baseball and anti-doping issues in amateur sports, 9:30 a.m., SR–253.

June 19, Subcommittee on Communications, to hold hearings to examine future sufficiency and stability of the Universal Service Fund, 10 a.m., SR–253.

June 19, Subcommittee on Science, Technology, and Space, to hold hearings to examine the National Aeronautics and Space Administration, focusing on education programs, 2:30 p.m., SR–253.

June 20, Full Committee, to hold hearings to examine global climate change, focusing on the U.S. Climate Action Report, 10 a.m., SR–253.

Committee on Energy and Natural Resources: June 18, Subcommittee on Public Lands and Forests, to hold hearings on S. 198, to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land; S. 1846, to prohibit oil and gas drilling in Finger Lakes National Forest in the State of New York; S. 1879, to resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska; S. 2222, to resolve certain conveyances and provide for alternative land selections under the Alaska Native Claims Settlement Act related to Cape Fox Corporation and Sealaska Corporation; S. 2471, to provide for the independent investigation of Federal wildland firefighter fatalities; and S. 2482, to direct the Secretary of the Interior to grant to Deschutes and Crook Counties in the State of Oregon a right-of-way to West Butte Road, 2:30 p.m., SD–366.

June 19, Full Committee, to hold hearings on S. 2473, to enhance the Recreational Fee Demonstration Program for the National Park Service; and S. 2607, to authorize the Secretary of the Interior and the Secretary of Agriculture to collect recreation fees on Federal lands, 9:30 a.m., SD–366.

June 20, Subcommittee on National Parks, to hold hearings on S. 139/H.R. 3928, to assist in the preservation of archaeological, paleontological, zoological, geological, and botanical artifacts through construction of a new facility for the University of Utah Museum of Natural History, Salt Lake City, Utah; S. 1609/H.R. 1814, to amend the National Trails System Act to direct the Secretary of the Interior to conduct a study on the feasibility of designating the Metacomet-Monadnock-Mattabesett Trail extending through western Massachusetts and central Connecticut as a national historic trail; S. 1925, to establish the Freedom's Way national Heritage Area in the States of Massachusetts and New Hampshire; S. 2196, to establish the National Mormon Pioneer Heritage Area in the State of Utah; S.2388, to direct the Secretary of the Interior to study certain sites in the historic district of Beaufort, South Carolina, relating to the Reconstruction Era; S. 2519, to direct the Secretary of the Interior to conduct a study of Coltsville in the State of Connecticut for potential inclusion in the National Park System; and S. 2576, to establish the Northern Rio Grande National Heritage Area in the State of New Mexico, 2:30 p.m., SD–366.

Committee on Environment and Public Works: June 18, to hold hearings to examine water resources development programs within the U.S. Army Corps of Engineers, 2:30 p.m., SD–406.

June 20, Subcommittee on Superfund, Toxics, Risk, and Waste Management, to hold hearings to examine lessons learned from asbestos remediation activities in Libby, Montana, as well as home insulation concerns relating to asbestos, 9:30 a.m., SD–406.

Committee on Finance: June 18, to hold hearings to examine the protection of seniors from abuse and neglect, 10 a.m., SD–215.

June 18, Full Committee, business meeting to resume markup of H.R. 7, to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and families in need, and to enhance the ability of low-income Americans to gain financial security by building assets; and to begin markup of S. 2498, to amend the Internal Revenue Code of 1986 to require adequate disclosure of transactions which have a potential for tax avoidance or evasion; and S. 2119, to amend the Internal Revenue Code of 1986 to provide for the tax treatment of inverted corporate entities and of transactions with such entities, 2:30 p.m., SD–215.

Committee on Foreign Relations: June 19, Subcommittee on Western Hemisphere, Peace Corps and Narcotics Affairs, to hold hearings on S. 1017, to provide the people of Cuba with access to food and medicines from the United States, to ease restrictions on travel to Cuba, to provide scholarships for certain Cuban nationals, 2:30 p.m., SD–419.

Committee on Governmental Affairs: June 19, to hold hearings on the nomination of Michael D. Brown, of Colorado, to be Deputy Director of the Federal Emergency Management Agency, 10:30 a.m., SD–342.

June 20, Full Committee, to hold hearings to examine the President's proposal to create a Department of Homeland Security, 9:30 a.m., SD–106.

Committee on Health, Education, Labor, and Pensions: June 19, business meeting to consider S. 2184, to provide for the reissuance of a rule relating to ergonomics; S. 2558, to amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries; S. 2328, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to ensure a safe pregnancy for all women in the United States, to reduce the rate of maternal morbidity and mortality, to eliminate racial and ethnic disparities in maternal health outcomes, to reduce pre-term, labor, to examine the impact of pregnancy on the short and long term health of women, to expand knowledge about the safety and dosing of drugs to treat pregnant women with chronic conditions and women who become sick during pregnancy, to expand public health prevention, education and outreach, and to develop improved and more accurate data collection related to maternal morbidity and mortality; S. 1115, to amend the Public Health Service Act with respect to making progress toward the goal of eliminating tuberculosis; S. 710, to require coverage for colorectal cancer screenings; and pending nominations, 9:30 a.m., SD–430.

June 19, Full Committee, to hold hearings on proposed legislation authorizing funds for the National Science Foundation, focusing on math and science research, development, and education in the 21st century, 1:45 p.m., SD–430.

June 20, Full Committee, to hold hearings to examine workers freedom of association, focusing on obstacles to forming unions, 10 a.m., SD–430.

June 21, Full Committee, to hold hearings to examine the importance of summer school to student achievement and well being, 9:30 a.m., SD–430.

Select Committee on Intelligence: June 17, closed business meeting to consider pending intelligence matters, 11 a.m., SH–219.

June 18, Full Committee, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine certain events surrounding September 11, 2001, 10 a.m., S–407 Capitol.

June 18, Full Committee, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine certain events surrounding September 11, 2001, 2:30 p.m., S–407, Capitol.

June 19, Full Committee, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine certain events surrounding September 11, 2001, 10 a.m., S–407, Capitol.

June 19, Full Committee, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine certain events surrounding September 11, 2001, 2:30 p.m., S–407, Capitol.

June 20, Full Committee, to hold joint closed hearings to examine certain intelligence matters, 2:30 p.m., SH–219.

Committee on the Judiciary: June 18, to hold hearings to examine proposals to reform the death penalty, 10 a.m., SD–226.

June 19, Subcommittee on Crime and Drugs, to hold hearings to examine penalties for white collar offenses, 10:30 a.m., SD–226.

House Chamber

To be announced.

House Committees

Committee on Appropriations, June 18, Subcommittee on the Treasury, Postal Service and General Government, on OPM, 10 a.m., 2359 Rayburn.

June 20, Subcommittee on Transportation, on Transportation Security Administration, 10 a.m., 2358 Rayburn.

June 20, Subcommittee on the Treasury, Postal Service and General Government, on Office of National Drug Control Policy, 10 a.m., 2359 Rayburn.

June 21, Subcommittee on Commerce, Justice, State and Judiciary, on FBI Reorganization, 10 a.m., 2359 Rayburn.

Committee on the Budget, June 19, hearing on Social Security: The Long-Term Budget Implications, 10 a.m., 210 Cannon.

Committee on Education and the Workforce, June 18, Subcommittee on Employer-Employee Relations, hearing on "The Rising Cost of Health Care: How are Employers and Employees Responding?" 2 p.m., 2175 Rayburn.

June 20, Subcommittee on Workforce Protections, hearing on "An Assessment of the Use of Union Dues for Political Purposes: Is the Law Being Followed or Violated?" 10 a.m., 2175 Rayburn.

June 21, Subcommittee on Employer-Employee Relations, hearing on "Expanding Access to Quality Health Care: Solutions for Uninsured Americans," 10:30 a.m., 2175 Rayburn.

Committee on Financial Services, June 18, Subcommittee on Capital Markets, Insurance and Government Sponsored Enterprises, to continue hearings entitled "Insurance Regulation and Competition for the 21st Century," Part III, 2 p.m., 2128 Rayburn.

Committee on Government Reform, June 17, Subcommittee on Criminal Justice, Drug Policy and Human Resources, hearing on "Homeland Security Reorganization: What Impact on Federal Law Enforcement and Drug Interdiction?" 2:30 p.m., 2154 Rayburn.

June 19, full Committee, hearing on "The Status of Research Into Vaccine Safety and Autism," 11 a.m., 2154 Rayburn.

June 20, hearing on "The Department of Homeland Security: An Overview of the President's Proposal," 1 p.m., 2154 Rayburn.

Committee on International Relations, June 18, Subcommittee on Middle East and South Asia, hearing on Recent Developments in the Middle East, 1:30 p.m., 2172 Rayburn.

June 19, full Committee, hearing on Foreign Government Complicity in Human Trafficking: A Review of the State Department's 2002 Trafficking in Persons Report, 1 p.m., 2172 Rayburn.

June 19, Subcommittee on East Asia and the Pacific, hearing on Recent Developments in Burma, 10 a.m., 2200 Rayburn.

June 19, Subcommittee on Europe, hearing on "NATO and Enlargement: A United States and NATO Perspective," 10 a.m., 2172 Rayburn.

June 20, full Committee, hearing on Oil Diplomacy: Facts and Myths Behind Foreign Oil Dependency, 10:45 a.m., 2172 Rayburn.

Committee on the Judiciary, June 18 and 19, to continue markup of H.R. 3215, Combating Illegal Gambling Reform and Modernization Act; and to mark up the following bills: H.R. 1452, Family Reunification Act of 2001; H.R. 4623, Child Obscenity and Pornography Prevention Act of 2002; H.R. 4477, Sex Tourism Prohibition Improvement Act of 2002; H.R. 4679, Lifetime Consequences for Sex Offenders Act of 2002; H.R. 4858, to improve access to physicians in medically underserved areas; H. Res. 417, recognizing and honoring the career and work of Justice C. Clifton Young; and H.R. 4864, Anti-Terrorism Explosives Act of 2002, 10 a.m., 2141 Rayburn.

June 18, Subcommittee on Crime, Terrorism, and Homeland Security, hearing on H.R. 912, Innocence Protection Act of 2001, 4 p.m., 2237 Rayburn.

June 19, Subcommittee on Immigration, Border Security, and Claims, oversight hearing on "The Immigration and Naturalization Service's (INS's) Interior Enforcement Strategy," 2 p.m., 2237 Rayburn.

June 20, Subcommittee on Commercial and Administrative Law, oversight hearing on "Litigation and its Effect on the Rails-To-Trails Program," 10 a.m., 2141 Rayburn.

June 20, Subcommittee on Courts, the Internet, and Intellectual Property, oversight hearing on "Patent Reexamination and Small Business Innovation," 2 p.m., 2141 Rayburn.

Committee on Resources, June 18 and 19, hearings on H.R. 4840, Sound Science for Endangered Species Act Planning Act of 2002, 2 p.m., 1334 Longworth.

June 19, oversight hearing on the Washington Aqueduct and the effects of its discharge on the C&O Canal National Historic Park and the endangered shortnose sturgeon, 10 a.m., 1334 Longworth.

June 20, Subcommittee on Fisheries Conservation, Wildlife and Oceans, to mark up the following measures: H. Con. Res. 408, honoring the American Zoo and Aquarium Associate for their continued service to animal welfare, conservation education, conservation research, and wildlife conservation programs; H.R. 3937, to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California; H.R. 4807, Susquehanna National Wildlife Refuge Expansion Act; H.R. 4882, to revise and modernize the provision of law governing the commissioned officer corps of the National Oceanic and Atmospheric Administration; and H.R. 4883, Hydrographic Services Improvement Act Amendments of 2002, 11 a.m., 1334 Longworth.

June 20, Subcommittee on Forests and Forest Health, hearing on the following: H.R. 4870, Mount Naomi Wilderness Boundary Adjustment Act; a measure to provide for the conveyance of the Mount Wilson Observatory in the Angeles National Forest, California, to the nonprofit organization currently operating the observatory under long-term lease; H.R. 3802, to amend the Education Land Grant Act to require the Secretary of Agriculture to pay the costs of environmental reviews with respect to conveyances under that Act; a measure to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona; and the Los Padres National Forest Land Exchange Act of 2002, 9:30 a.m., 1334 Longworth.

Committee on Rules, June 17, to consider the following: a resolution relating to consideration of the Senate amendment to H.R. 3009, Andean Trade Promotion and Drug Eradication Act; and H.R. 327, Small Business Paperwork Relief Act of 2002, 5:30 p.m., H–313 Capitol.

June 18, to consider the following: H.R. 2114, National Monument Fairness Act; H.R. 3389, National Sea College Program Act Amendments of 2002; H.R. 1979, Small Airport Safety, Security, and Air Service Improvement Act of 2002; and H.R. 4931, Permanent Retirement Security and Pension Reform Act of 2002, 4:30 p.m., H–313 Capitol.

Committee on Science, June 20, Subcommittee on Environment, Technology, and Standards, hearing on Research Priorities for Aquatic Invasive Species, 10 a.m., 2318 Rayburn.

Committee on Small Business, June 19, hearing on How Limiting International Visitor Visas Hurts Small Business Tourism, 10 a.m., 2360 Rayburn.

Committee on Transportation and Infrastructure, June 18, Subcommittee on Highways and Transit, hearing on Intermodalism: Moving America's People and Goods, 10 a.m., 2167 Rayburn.

June 19, Subcommittee on Aviation, to mark up H.R. 4635, Arming Pilots Against Terrorism Act, 10 a.m., 2167 Rayburn.

June 20, Subcommittee on Highways and Transit, hearing on Federal Transit Capital Grants Programs, 2 p.m., 2167 Rayburn.

Committee on Ways and Means, June 18, Subcommittee on Oversight, hearing on Retirement Security and Defined Benefit Pension Plans, 11 a.m., 1100 Longworth.

June 18, Subcommittee on Social Security, to continue hearings on Social Security Disability Programs' Challenges and Opportunities, 2 p.m., B–318 Rayburn.

Joint Meetings

Joint Meetings: June 18, Senate Select Committee on Intelligence, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine certain events surrounding September 11, 2001, 10 a.m., S–407, Capitol.

Joint Meetings: June 18, Senate Select Committee on Intelligence, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine

certain events surrounding September 11, 2001, 2:30 p.m., S–407, Capitol.

Joint Meetings: June 19, Senate Select Committee on Intelligence, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine certain events surrounding September 11, 2001, 10 a.m., S–407, Capitol.

Joint Meetings: June 19, Senate Select Committee on Intelligence, to hold joint closed hearings with the House Permanent Select Committee on Intelligence to examine certain events surrounding September 11, 2001, 2:30 p.m., S–407, Capitol.

Commission on Security and Cooperation in Europe: June 19, to hold hearings to examine the current human rights atmosphere in Kosovo, focusing on the rights of ethnic minorities to return home, human trafficking, and the rising tensions between the region's ethnic minorities, 9:30 a.m., SD–124.

June 20, Full Committee, to hold joint hearings to examine human rights in Greece, focusing on minority rights, religious liberty, freedom of the media, human trafficking, and domestic terrorism, 9:30 a.m., 334, Cannon Building.

Next Meeting of the SENATE

2 p.m., Monday, June 17

Senate Chamber

Program for Monday: Senate will resume consideration of S. 2600, Terrorism Risk Insurance Act.

Next Meeting of the HOUSE OF REPRESENTATIVES

12:30 p.m., Monday, June 17

House Chamber

Program for Monday: Consideration of suspensions.

Extensions of Remarks, as inserted in this issue

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