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House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, January 20, 2004, at 12 noon.

Senate

TUESDAY, DECEMBER 9, 2003

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

PRAYER

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

Let us pray.

Eternal Spirit, Who directs the paths of all who love You, in this season of peace on Earth, we thank You for Your Word and for the eternal truths that guide us day by day. Thank You, Lord, for another day with opportunities to make a difference in Your world. Thank You also for the sureness of Your presence that brings us peace in the midst of this world's turmoil. Lord, teach us to turn to You so that Your thoughts can become our thoughts and Your ways our ways. Be for our Senators a refuge and a fortress and may they put their trust in You. Help each of us to depend upon Your strength as we navigate life's challenging seas. May we trust the wonderful laws of sowing and reaping, knowing You will bring us an abundant harvest. We pray this in Your great Name. Amen.

NOTICE

If the 108th Congress, 1st Session, adjourns sine die on or before December 9, 2003, a final issue of the Congressional Record for the 108th Congress, 1st Session, will be published on Monday, December 15, 2003, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–410A of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through Friday, December 12, 2003. The final issue will be dated Monday, December 15, 2003, and will be delivered on Tuesday, December 16, 2003.

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By order of the Joint Committee on Printing.

ROBERT W. NEY, *Chairman.*

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

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, I welcome everybody back from a short recess over the Thanksgiving holiday. I hope everyone did have a safe and a restful period after a very busy 3 to 4 weeks just prior to that. I hope everybody had an opportunity to spend good time, quality time with family and friends.

As I announced before the break, we have returned today with the hope of completing our work on the appropriations process. Chairman STEVENS finished the negotiations on the omnibus measure, and that conference report was filed in the House of Representatives before we departed for Thanksgiving.

Today, we hope to take up that conference report and dispose of it, although I understand this will not be possible. I will be discussing momentarily other options with the Democratic leader and will likely be propounding a unanimous consent request for consideration of the omnibus bill here later this morning.

We will not have any rollcall votes today, but in addition to any agreements we may reach here on the omnibus measure, we would like to also consider other legislative and executive matters that can be cleared over the course of the day. Specifically, there are a large number of important executive nominations that are pending on the calendar that I hope we will be able to address. Again, I will be working with the Democratic leader to proceed to any of these noncontroversial nominations before we conclude our business today.

At this juncture, I will be happy to yield to the Democratic leader, and then likely we will go into a period of morning business, and we will have a discussion about the further plans for the day.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democrat leader is recognized.

Mr. DASCHLE. Mr. President, I join the majority leader in welcoming our colleagues and our staff. I, too, hope they all had a good Thanksgiving holiday, and I appreciate the work that has been done at the staff level over the course of the last couple weeks as we have prepared for this day.

I look forward to our discussions in the next couple of minutes with regard to how we might proceed. I have a more extensive statement with regard to the omnibus appropriations bill that I will make at a later time.

Obviously, there are some executive nominations that we believe could be addressed. We have been working together to find how we might move a large number of them today, and I hope before the end of this day we will have completed our work on that as well.

I look forward to working with the majority leader and our colleagues in the hope we can make this a very productive day.

I yield the floor.

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. FRIST. Mr. President, the Democratic leader and I will be in discussions over the next several minutes, but I suggest we go ahead into morning business at this juncture.

MORNING BUSINESS

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

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT REQUEST—CONFERENCE REPORT TO ACCOMPANY H.R. 2673

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the conference report to accompany H.R. 2673, the omnibus appropriations language; further, I ask unanimous consent that the conference report be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? The Democratic leader.

Mr. DASCHLE. Reserving the right to object—and I will have a lengthier statement—I ask unanimous consent, instead, that later today, at a time to be determined by the two leaders, the Senate proceed to the consideration of a resolution to correct the flaws in the omnibus appropriations bill by: Reinstating the Senate-passed provision to prohibit the administration's plan to abolish overtime for 8 million workers; reinstating the Senate-passed provision on media ownership; striking the House language blocking the implementation of country-of-origin labeling; striking the provision that weakens the background check requirements of the Brady bill; striking the provision to impose a voucher system on the DC public school system; striking the provision to allow the contracting out of over 400,000 Federal jobs and reinstating the House-passed language; and striking the provisions imposing arbitrary across-the-board cuts to education, Head Start, veterans health care, highway construction, and other needed programs. I further ask consent that the resolution be subject to 1 hour of debate equally divided, that no amendments or motions be in order, and that after the expiration of the time, the bill be agreed to and sent to the House of Representatives. Finally, I ask consent that upon approval of this correcting resolution by the House, the omnibus appropriations bill be agreed to by the Senate, and that it be sent to the President for his signature.

The PRESIDING OFFICER. Does the leader so modify his request?

Mr. FRIST. I object to the Democratic leader's request.

Mr. DASCHLE. Mr. President, then I object to the request made by the majority leader.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, both requests have thus far been objected to; am I correct?

The PRESIDING OFFICER. That is correct.

Mr. BYRD. I thank the Chair.

Mr. FRIST. Mr. President, I ask unanimous consent that at a time determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to the conference report to accompany the omnibus bill, provided, further, that there be 5 hours for debate to be equally divided in the usual form. I further ask consent that following the use or yielding back of debate time, the Senate proceed to a vote on the adoption of the conference report, with no intervening action or debate.

Mr. DASCHLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. FRIST. Mr. President, I am not surprised by these objections. I think that a number of colleagues, including the distinguished Senator from West Virginia and others on their side, have been very open and forthright with their intent to object to this legislation.

The conference report was filed before Thanksgiving, and it was my hope that over the intervening period of time people would have had the opportunity to review the language before we proceeded. I hope they have taken that opportunity to do so.

Given the objections we have just heard, it appears as though we will need to file cloture on the measure to assure a vote on the conference report. That cloture vote will occur on January 20. It is my hope that during this period Members will take the additional time to review it so everyone can fully understand the importance of much of the funding in this legislation.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2004—CONFERENCE REPORT

Mr. FRIST. Mr. President, I now ask unanimous consent that the Senate proceed to the conference report to accompany H.R. 2673, the omnibus bill, for the purpose of filing cloture. I further ask consent that following the filing of cloture on the conference report, the Senate then proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

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

The assistant legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2673), making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of November 25, 2003.)

CLOTURE MOTION

Mr. FRIST. Mr. President, for the reasons stated earlier, I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report to accompany H.R. 2673, a bill making appropriations for the Department of Agriculture and Related Agencies for fiscal year 2004, and for other purposes:

Bill Frist, Rick Santorum, George Allen, Robert F. Bennett, Jon Kyl, Ted Stevens, Kay Bailey Hutchison, Ben Nighthorse Campbell, Mitch McConnell, Judd Gregg, Orrin G. Hatch, John Cornyn, Christopher Bond, Saxby Chambliss, Sam Brownback, Larry E. Craig, Richard Shelby.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I now ask unanimous consent that the mandatory quorum under rule XXII be waived and, further, that notwithstanding rule XXII, this cloture vote occur on January 20 at 2:30 p.m.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—H.R. 2800

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2800, the Foreign Operations appropriations bill, as passed by the Senate on October 30, that all after the enacting clause be stricken and the text of division D of H.R. 2673, the omnibus appropriations bill, be inserted in lieu thereof, the bill be read the third time, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

Mr. FRIST. Reserving the right to object, Mr. President, I think much of what is in the Foreign Operations bill and part of the real focus of the proposed unanimous consent request is on global HIV/AIDS funding. As most in this body know, I do believe HIV/AIDS has presented the greatest moral, humanitarian, and public health challenge of really the last 100 years, if you look at the impact it is having.

We are under a continuing resolution and I have looked very closely to make sure that sufficient moneys will not be interrupted over the intervening period of time. Indeed, there is sufficient money that has not been allocated in the appropriate funds that can be used and that would cover the increment of the next 1 month in terms of funding.

Again, it is important for colleagues and others to understand we will be operating under a continuing resolution and the funding that is currently being appropriated, given to the organizations and to serve the needs of the people, will continue and there can be increased funding allocated within the appropriate categories to cover that increment over time for HIV/AIDS funding.

With that, I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST—S. 1853

Mr. DASCHLE. Mr. President, I ask unanimous consent that the Senate proceed to the legislative session, that the Finance Committee be discharged from further consideration of S. 1853, a bill to extend unemployment insurance benefits for displaced workers, that the Senate proceed to its immediate consideration, the bill be read the third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. FRIST. Reserving the right to object, Mr. President, the unemployment insurance is an issue we will continue to discuss with our colleagues. The House has not yet acted on unemployment insurance. It is an issue we will continue to have under discussion as we go forward.

With that said, I do object.

The PRESIDING OFFICER. Objection is heard.

OMNIBUS SPENDING BILL

Mr. DASCHLE. Mr. President, unless the majority leader has additional comments, I wish to take a few moments to address my concerns about the current draft of the appropriations bill.

I believe the appropriations process has fallen apart. This is a Frankenstein monster of a bill born of a badly broken process. It is time to send it back to the laboratory.

At the beginning of the year, we were told the White House and the Senate Republican leadership would make sure the appropriations process ran more smoothly than ever before. In fact, the process broke down to an extent never seen before, opening the door to the worst kind of legislative abuses and special interest giveaways.

This bill, this monstrosity, combines 7 appropriations bills, including 11 of 15 Cabinet-level Departments, comprising $820 billion in Government spending. To agree to a unanimous consent request this morning I believe would represent a shocking abrogation of our responsibilities to the people of this country. We have not finished until 2½ months into the fiscal year. This was supposed to have been done on October 1. It is now early December.

These delays are becoming regrettably common. But what makes this omnibus unique is its utter disregard for the expressed will of each House of Congress. The process was an abomination, closed largely to Democrats, hidden from the light of day, written to satisfy nothing more than special interest wish lists.

It didn't have to be this way. The Senate passed 12 of the 13 appropriations bills by wide bipartisan margins. The House passed 13 appropriations bills with wide margins. None of the bills posed difficulties. The only reason the process was handled this way was to ram through divisive provisions and pork spending that could never win the support of the Congress on their own.

I thank Chairman STEVENS and especially my ranking member, Senator BYRD, for the work they did to avoid this calamity. They understand the proper process and worked to employ it in this case. However, they were overruled by the White House and Republican leadership. That's why we find ourselves in this regrettable situation today.

This brand of legislating opens the door to the most ludicrous examples of pork spending, which has contributed to citizens' loss of faith in the process itself.

Even the conservative Taxpayers for Common Sense said:

This bill includes thousands of frivolous, bizarre, and special interest earmarks for every congressional district in the nation.

For example, in this bill, somewhere in these pages, you will find $2 million to encourage young people to play golf; half a million dollars for halibut data collection; money for a replica mule barn in LaSalle, IL; and most ironic, a half a million dollars for the ''Exercise in Hard Choices'' Program at the University of Akron which attempts to replicate House and Senate meetings in which congressional members review a budget and vote to include or exclude various options.

Alongside this kind of wasteful spending, this bill includes several mean-spirited damaging offsetting cuts. These cuts will result in 24,000 fewer children who will be served by title I educational programs; 5,500 fewer kids will be able to attend Head Start; 26,500 fewer veterans will receive medical care; and $170 million will be cut from needed highway construction projects. I could go on all day.

What is most troubling about this bill is the fact that some of the most egregious provisions that were sneaked into this bill at the last minute had already been rejected by one or both Houses of Congress. The fact that the White House directed conferees to include them shows a contempt both for the procedures of Congress and the citizens they were designed to protect.

This bill once more allows the White House to end overtime protection for American workers. The Senate voted to stop the White House's plan by a vote of 54 to 45. The House agreed by a vote of 221 to 203. The reason is clear. Ending overtime is bad for working families, and it is bad for the economy. At this precarious moment for our economy, the White House's plan would deliver a pay cut to 8 million workers, including emergency medical personnel, criminal investigators, nurses, physician assistants, teachers, agriculture inspectors, and more.

Overtime accounts for nearly a quarter of these workers' take-home pay. For many Americans, their overtime offers them the chance to save for college or a down-payment for a house, or simply to meet their medical bills. It has been vital protection for workers for the past 70 years, and now Congress's defense of working families, overwhelmingly approved by both the Senate and in the House, mysteriously was stripped from this bill.

Media ownership is another example. Real damage to our democracy occurs when a few companies control the airwaves. We had broad bipartisan support for maintaining the limits—wide majorities, again, in both the House and the Senate.

After first agreeing to retain the language passed by the House and Senate to limit the number of stations a network can own, conferees bowed to White House pressure to permanently raise the limit to make it easier on media conglomerates, again, directly overturning rollcall votes taken in the House and Senate on media ownership. Mysteriously, once more, the legislation confronted reality and the sentiment of the Members of both bodies.

Consider country-of-origin labeling: The omnibus legislation I have in front of me includes language actually delaying the implementation of country-of-origin labeling for 2 years. The Senate passed country-of-origin labeling on two occasions—in May of 2002 as part of the farm bill, as well as just last month with a vote of 56 to 32.

Consumers deserve the right to make informed choices. The economic benefit to farmers and ranchers in struggling rural communities could not be more apparent. It was supported by 167 farm organizations representing 50 million Americans but opposed by the four meatpackers that control 80 percent of the U.S. beef market. They worked behind the scenes to kill this rule and that, too, is in this legislation.

This bill also undermines our ability to stop gun crimes: This bill requires the destruction of background check records within 24 hours. Current law requires records to be maintained for 90 days. It is vital to the war on terror, as well as to domestic violence cases, that retention of these records be maintained. The retention of records has been critical to audit NICS and correct mistaken approvals. We will no longer have that ability as a result of the provisions included in this bill.

The General Accounting Office reports that the 90-day retention allowed the FBI to retrieve 235 guns that were bought by people with criminal records.

We also had a big debate—a very aggressive debate—about DC vouchers. We stripped out the provision that was reinserted to circumvent Democratic objections. There was no accountability here. In addition, we are undermining the Washington, DC, schools to advance a theory that absolutely has no evidence to back it up. Vouchers threaten to create two-tiered education system in which more children each year are left behind. But as with the other controversial provisions, vouchers, for the first time at the Federal level, are in this bill.

This bill also undermines our protection of federal workers. Language was dropped that blocked the OMB plan to contract out 400,000 Federal workers. The conferees had reached a bipartisan compromise, but that was rejected by the White House. What remains provides so many loopholes for OMB that the Federal workers have very little protection.

This bill is to good legislating what a dank basement corner is to good housekeeping. Both could stand a good dose of sunlight, and that is just what we intend to do.

We will not allow this bill to be sneaked through a procedural back door when no one is looking. It may mean further delay, but 1 more month of delay is nothing compared to the enduring damage this bill will cause to the Senate, our Government, and our Nation.

EXTENSION OF THE FEDERAL UNEMPLOYMENT BENEFITS PROGRAM

Mr. President, with regard to the unanimous consent request I had made, this holiday season is bringing the same bad news that millions of jobless workers heard last year. Nearly 3 million Americans have lost their jobs; 2.6 million in manufacturing alone. The number of people looking for work for more than 6 months has now tripled since the beginning of the Bush administration.

In fact, the economy would have to create over 347,000 jobs per month just to keep the Bush administration from having the worst rate of job creation of any administration since the Great Depression.

Today, there are three job seekers for every job opening. Yet the Republican leadership in the Congress is again refusing to address this urgent problem.

During this holiday season, the temporary Federal Unemployment Benefits Program will expire. This means each week after December 21, more than 80,000 Americans will run out of their State unemployment benefits. These workers will not be eligible for any additional assistance.

Last fall, before Congress adjourned, the Senate worked on a bipartisan basis to ensure that unemployment workers would not be left out in the cold. Unfortunately, the House Republican leadership decided to turn its back on these families, and the administration has failed to act as well. As a result, thousands of workers were stranded until Congress reconvened, and we were able to pass an extension. Over the last several weeks, Senate Democrats have repeatedly propounded unanimous consent requests to pass an extension to the Federal Unemployment Insurance Program. We faced Republican objections every time. House Majority Leader TOM DELAY went so far as to say he sees no reason to extend the Federal unemployment compensation program.

Clearly, inaction is an unacceptable position. It was last year, and it remains so this year. Since it appears Congress may not return until the end of January, it is now even more urgent that the administration influence congressional Republicans to work with us to pass a 6-month extension before Congress adjourns.

As we approach the holiday season, we have to ensure that families are not left without the ability to make ends meet while searching for employment.

FOREIGN OPERATIONS CONFERENCE REPORT

Mr. President, finally, let me briefly explain why I felt the need to ask unanimous consent to pass the Foreign Operations conference report. AIDS is the worse public health crisis the world has ever known. Mr. President, 8,000 people—8,000—die each and every day;

15,000 people contract HIV every day, the majority of them young people.

The Foreign Operations conference report provides $800 million for an increase—a much needed increase—in the Global AIDS Program. It is a positive step in our effort to fight and defeat this pandemic. It should have been done 2 months ago. We should not have to wait another 2 months. The crisis is simply too pressing.

Unfortunately, the Republican leadership and the House Appropriations Committee would have us wait. There are a lot of controversial items in this huge omnibus, but let's be clear: The Foreign Operations conference report and the increased AIDS funding is certainly not one of them. Foreign Operations was signed by every single conferee. It was minutes from being filed. Unfortunately, some Republicans intervened and demanded that it be rolled into the larger bill.

Why? Because they wanted increased leverage on the omnibus and the controversial policy provisions, provisions that go against the will of bipartisan majorities in both Houses of Congress.

So let's be clear. The reason they insisted on this was to hold increased AIDS funding hostage to these special interest giveaways. In a season of disappointments, that is especially disappointing. So I am very deeply disappointed that by unanimous consent we could not take up a bill that had passed unanimously in conference, signed by all the conferees, recognizing that 8,000 people who die every day will not get the kind of attention, the resources, the commitment, and the response they so desperately need.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

ARMY CHIEF WARRANT OFFICER BRIAN VAN DUSEN

Mr. DEWINE. Mr. President, I rise to remember a native of Columbus, OH, a brave man who sacrificed his life to save another, that of a little Iraqi girl who had been severely injured in an explosion near the Tigris River. That man is Army CWO Brian Van Dusen. On May 9, 2003, Brian, age 39, and fellow soldiers, CWO Hans Gukeisen from Lead, SD, and CPL Richard Carl from King Hill, ID, were killed when their air medical helicopter crashed after that little girl had been safely carried away in a separate aircraft.

These three men were selfless. They were courageous. They understood how precious human freedom is and how precious human life is. At a memorial service for them at Fort Carson, CO, Chaplain James Ellison said: Our last act can demonstrate our life's purpose.

Indeed, Brian Van Dusen's purpose was to preserve and protect freedom for his children and his family, for us and our families, and, yes, for that little girl in Iraq and her family. He gave his last full measure of devotion so that a little girl whom he did not know, a little girl living in a land far away from his own children, could grow up and live her life in freedom with a future filled with hope and opportunity.

Brian Van Dusen had been flying military helicopters for 19 years. He was stationed with the 571st Air Ambulance Medical Company in Fort Carson. In fact, he voluntarily deferred a post in Germany so that he would be deployed with his own company to Iraq. He chose to go to Iraq because he believed in saving lives, and he believed in what we were doing. He wanted to go.

He did, in fact, save lives. He also wanted to bring hope to the Iraqi people, especially the children. He also wanted to serve our country.

When he left for Iraq, Brian filled his duffle bag full of lollipops that he would give to the children in Iraq. Not only did he give all of those lollipops away but he wrote letters home asking his wife to send even more.

Brian Van Dusen cared. His friends and family say he had a gentle manner; that he was a family man, a loving husband to his wife Bridgette and devoted father to his younger children Angel and Joseph and to his older children Joshua and Kelly. Bridgette described him as a selfless man and a wonderful father.

From Iraq, he took the time to write home regularly to send his love and make sure Angel and Joseph were learning to ride their mini-motorcycles. ''Make sure mommy takes you riding,'' he wrote. He loved his children and his family with all of his heart.

Brian Van Dusen also loved NASCAR and was an avid hunter. He cherished the deer hunting trips he took with his older brother David. As David so eloquently said after Brian's death:

> You just can't take anything for granted. I'm going to miss him. He was a good brother and a great father. God bless him—wherever he is.

Brian Van Dusen was a man of great devotion. He was devoted to his wife. He was devoted to his children. He was devoted to our Nation. He gave of himself in every way. He served selflessly with compassion, courage, and strength. Clare Booth Luce once said that courage is the ladder on which all other virtues mount. Without question, CWO Brian Van Dusen's courage created a ladder with rungs of great virtue. He is an American hero who will live on in our hearts and minds forever.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

URGING PASSAGE OF FISCAL YEAR 2004 OMNIBUS APPROPRIATIONS BILL

Mr. STEVENS. Mr. President, yesterday the House passed the fiscal year 2004 omnibus appropriations bill by a bipartisan vote. Republicans and Democrats alike joined in adopting this bill. I had hoped today the Senate could be given the opportunity to pass this bill which would fund a variety of programs critical to the American people and indeed the world.

That does not seem possible now, but the consequences of delay on this bill are real and the dangers are great. Many people will be affected by this delay. One of the bills included in the omnibus appropriations bill is the foreign operations budget. That measure includes increases in funds to combat the world's growing AIDS epidemic. With the support of Democrats and Republicans alike, $2.4 billion was added to this bill to combat AIDS, tuberculosis, and malaria around the world. This money would be used to buy life-giving medicines to treat people suffering with AIDS. It will help save the lives of mothers, fathers, and their children afflicted by this deadly disease of AIDS.

If they have to wait another month or two, will it make a difference? Unfortunately, the stark answer is yes.

Bono, the founder of Data, a worldwide humanitarian group, has urged us to pass this bill now. He knows better than most of us what a delay will mean to the people on the ground who wait patiently for our help. Can they wait another month or two? Probably not.

Closer to home, there are others who will suffer if this measure is delayed. Our conferees provided an increase of $38 million to provide more AIDS drugs domestically through the AIDS drug assistance program at the Health and Human Services Department.

Our Nation's veterans will be among groups hit hardest by a delay on this bill.

Again, on a bipartisan basis, the Senate led the way in providing additional funds to make sure America's veterans will get the medical treatment they were promised. In my own State of Alaska, some veterans have had to wait months for a basic doctor's appointment. Unfortunately, the veterans in Alaska are not alone. The waiting lists for veterans around the country, from Arizona to West Virginia, North Dakota to Florida, are on the rise. As veterans return from Iraq, the demand for medical care will increase even more. Coupled with the 1 percent attrition rate for VA doctors per month—I repeat that, a 1 percent attrition rate in VA doctors per month—the waiting periods for veterans will only get longer with this delay.

Likewise, without the additional money provided in the bill, 48 community-based outpatient clinics will be in jeopardy. Since the VA is forced to operate under the lower funding level provided in the continuing resolution, those clinics cannot open. In addition, pharmacy costs are going up for our Nation's veterans. In 2003, drug costs rose by a whopping 11 percent. The VA is incurring increased demands for prescriptions every month. To cover the high cost of drugs, the VA has been forced to cut other high-priority medical programs. They are forced by this

delay to continue operating under last year's lower funding level. So the problem, again, will only get worse.

Some of the older veterans, especially those with whom I served during World War II, may be forced to wait longer for long-term care because of the delay of this bill. The VA had planned to increase long-term care by 20 percent with the funds in this bill. I am not sure those veterans from World War II can wait additional months for that care.

Worst of all, the VA has raised concerns that the continuing resolution may not authorize mandatory compensation and benefit payments for veterans which were scheduled to begin in January. So, according to that information that we received from the VA, unless we pass this bill this week, beginning on New Year's Day, the VA will not be able to make the compensation payments to 2.5 million veterans and 314,000 of their survivors. There remains some confusion about this issue.

Likewise, the VA will not be able to make benefit payments to another 537,000 veterans. These benefit payments are needs-based pensions and sustain veterans with no other means of support. The payments will average $790 per person per month. Obviously, those with no income cannot wait another month without the money to pay for their rent or their food.

I do not think it is fair to ask disabled veterans, for some of whom this is their only income, to wait an additional time. I do not think this is how our returning veterans from Iraq should be welcomed home.

Unfortunately, it is not just our Nation's veterans who will suffer as the Government is forced to continue operating under last year's levels for another month or two. The Federal Housing Administration at HUD has indicated to our committee that its prorated insurance authority under this continuing resolution is not enough to meet the current projections for either FHA mutual mortgage insurance or the FHA general insurance and special risk insurance fund. That means that sometime in January the FHA insurance program for single-family and multifamily housing will run out of money. Needy families will also be forced to wait for the section 8 rent subsidy vouchers. They are living in shelters and must stay there for a few more months because we cannot bring this bill to a vote.

Under the continuing resolution, the AmeriCorps Program, which helps needy families and communities, would also be in jeopardy. Passage of our omnibus bill in January will delay this. Unless we pass this omnibus bill in January, there will be a delay in the enrollment of tens of thousands of new volunteers.

The Nation's schoolchildren will also suffer if we do not pass this omnibus bill before the end of the year. On a bipartisan basis, the conferees agreed to an increase of $2.9 billion for education programs to help our Nation's schools. Unfortunately, that money is just not available under the continuing resolution, based on last year's appropriations. Undoubtedly, now, despite our pledge, some children will be left behind.

Under the continuing resolution, assistance for school districts, States, and colleges will also be delayed. For example, the conferees provided an increase of $728 million for poor schools under the title I grant program which helps disadvantaged children. These moneys are not available under the continuing resolution based on last year's level, and that money will not be there when the second semester starts the first week of January.

Kids with disabilities are also going to suffer. The conferees provided $1.26 billion in new funding to help States meet their responsibility for kids with learning disabilities and physical and mental challenges. Instead of continuing impressive increases in Federal commitment to reaching the 40 percent payment authorized for students with disabilities, under the continuing resolution the Federal contribution will be frozen at 17.5 percent. This bill would have paid 40 percent; the continuing resolution provides only 17.5 percent. I do not think our Nation's schools should have to wait for this additional money, which they should have received back in October shortly after the school year began.

Other education programs will suffer under the continuing resolution. New funds for reading, some $57 million, will be delayed; impact aid, about $49 billion for children of military families, will be affected; $50 million for our Nation's colleges will be in jeopardy. Saddest of all, to me, will be the delay in funding for Head Start. We had provided an additional $148 million to expand and improve Head Start programs around the country. That also will be delayed because the money is not within the continuing resolution.

In addition to the adverse impact on health care for our veterans, the continuing resolution will also have a negative effect on health care programs for other Americans. Most immediate, this bill provides an additional $50 million to prepare for a pandemic flu outbreak, which is upon us now. It is upon us as I speak. Normally the flu season does not begin in earnest until late January, but this year it is early. If this measure is delayed, that $50 million will sit in the Treasury while Americans go untreated and unvaccinated for the flu. I seriously question whether they can wait for January for that flu shot. I hope something will be done to meet that very pressing problem.

Likewise, the $261 million provided in this measure for the Centers for Disease Control to combat emerging infectious diseases is also not available under the continuing resolution. That means the funds needed to combat diseases such as SARS, monkeypox, and hepatitis may not be there when they are needed.

The $122 million the conferees added to strengthen and expand community health centers will be delayed under the continuing resolution. This medical care to the underserved and uninsured across the country should not be delayed, but it will be.

Similarly, the $1 billion in new money for health research at the National Institutes of Health will be delayed under the continuing resolution. That is research on heart disease, cancer, diabetes, and other killers. It will have to be delayed until the bill is finally passed.

Our omnibus bill also includes an additional $159 million to combat substance abuse and mental health diseases. Hundreds of thousands of Americans suffering from addiction and mental illness, who could have received additional care, will go untreated under the continuing resolution. These additional funds could treat thousands of Americans. They will not be available now.

The omnibus bill also funds the Agriculture Department which helps feed the Nation. On a bipartisan basis, the conferees agreed to make substantial increases in funding for programs to make sure that no child goes to bed hungry.

The conferees provided an additional $3.6 billion over the 2003 funding level for the Food Stamp Program. That money is continued now at the 2003 level—not at the higher level of this bill. In fact, it is not enough money to allow every qualified applicant to participate in the Food Stamp Program without this bill.

Not only that, but this bill provides an additional $1 billion in reserve funding to provide for any unanticipated increase in program participation in food stamps.

In total, that is an extra $4.6 billion for the Food Stamp Program, or just under $400 million a month. That is what is going to be delayed—at least $400 million a month.

This bill cannot possibly get to the President until the end of January. It means that almost $800 million will not be available to feed hungry families between now and the end of January. It means that some families may not have a Christmas dinner.

Likewise, the conferees provided an additional $837 million over the 2003 funding level for other child nutrition programs—programs such as school lunches, school breakfasts, child and adult food programs, and the special milk program. Since this bill has been delayed, that money will not be available to help the hungry. A 2-month delay will mean about $70 million a month will not be there for those people.

The omnibus appropriations bill funds the Department of Transportation programs for fiscal year 2004, as well as other critical programs.

For example, the conferees agreed to add an additional $1.5 billion to complete preparations for the November

Presidential election. Continued operation under a continuing resolution means the full amount of funding will be delayed, along with the installation of state-of-the-art voting machines. This is very critical to our Nation. We all remember the last election, and we pledged to fix that. I do not think it will be possible because of the delay of this bill.

This measure also funds transit programs at $7.3 billion to address traffic congestion around the country. It provides $13.9 billion for the Federal Aviation Administration to ensure the safety of our air transportation system. Increases in both programs are now in jeopardy because this bill will not pass before the end of the year.

I have great concerns about the delay in funding for counterterrorism that will result in not passing this measure now. The conference report includes significant new funding for the Department of the Treasury to disrupt the financing of terrorist groups. Delayed funding could hamper the ongoing efforts to disrupt the cash-flow to the terrorist groups throughout the world.

The State-Justice-Commerce bill is also included within this omnibus measure. If this bill is not adopted, critical funds for the FBI and counterterrorism programs will be delayed. In addition, the United States would be late in paying its dues to the United Nations Educational, Scientific, and Cultural Organization, which is due January 1.

The District of Columbia bill is funded in this legislation, including the voucher program which was controversial, I will admit. But it is to give kids attending failing schools a chance to succeed in life. If this voucher program which is now authorized is delayed, it probably cannot go into effect the next semester. It is uncertain whether the program can be up and running by the next school year unless this bill passes before the end of this year.

Despite reports in the press and some opponents, I think this is a bipartisan bill. I don't believe there is a Senator in the Chamber who cannot or has not claimed credit for at least one program in this bill. It funds programs for Republicans and Democrats alike, and includes projects for Senators who are up for election regardless of party. Each of these seven bills was worked out largely by the chairman and ranking member, a Republican and a Democrat, on each subcommittee. Only a handful of these issues were resolved at the full committee level in conference.

Are there provisions in this bill to which the minority object? Yes. Does the White House endorse all of what we have done in this bill? Absolutely not. Are there sections in the bill that even I oppose? Yes. I do oppose some of the provisions. But the bill is the product of compromise, and unfortunately, it is a compromise that comes about when we are forced to join bills together into an omnibus bill. Senator BYRD and I have consistently opposed the concept of omnibus bills, and we sought to have bills pass singularly as they should be—13 separate appropriations bills.

I know there are items in here with which Senator BYRD disagrees. As I said, I know there are provisions with which I disagree. But the one thing I do thank the Senator from West Virginia for is working to try to get 13 separate bills. It has not been possible for us to do that. We were forced at the last minute to make some concessions to the White House and to the House in order to get a bill that the House would pass and which the President would sign. Some of those concessions are not acceptable to the minority. I understand that. I understand the process. Unfortunately, the timing of this bill is such that we had no alternative but to make the concessions in order to get the bill to the House.

I had hoped that we would be able to pass it today. I know that is not possible. Delay of this bill is going to cause real problems for people around this country and around the world, as I said in the beginning. It will hit the neediest among us hardest of all. And for some, unfortunately, this delay may be a matter of life or death. During the season of peace and helping each other, particularly the spirit of Christmas and the spirit of bipartisanship, I had hoped the 2004 omnibus appropriations bill would be able to pass today. I regret deeply as chairman of committee that is not possible. I take full responsibility for the delay because it was just not possible for us, within the rules, to finish the bills and get them to the Senate before this time.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

OMNIBUS APPROPRIATIONS

Mr. BYRD. Mr. President, let me begin by thanking my colleague, Senator STEVENS, the chairman of the Appropriations Committee, for the excellent work he has done on the bill that is now before the Senate, H.R. 2673, the omnibus appropriations bill. It consists of seven appropriations bills. Senator STEVENS has consistently sought to avoid having omnibus appropriations bills. He has zealously tried to have all of the 13 appropriations bills pass on time before the beginning of the new fiscal year and sent to the President of the United States for his consideration. Senator STEVENS has at all times been fair—eminently fair to me and to all members of the Appropriations Committee. I congratulate Senator STEVENS. He is an excellent chairman. And I congratulate the other members of the committee, both Democrats and Republicans, for working together as they have on this bill and as they have always done as long as I have been on that committee; and that is 45 years.

I share the disappointment of the distinguished chairman of the Appropriations Committee. I share his disappointment. He has been valiant in his efforts. He has been consistent in his search for ways by which we can come together and pass a bill on time. I could ask for nothing more.

Members of this Congress have a duty and a responsibility to the American people, to the men and women who send us to represent them in this great Capitol. Those men and women who send us to represent them in this Capitol do not expect us to rubberstamp legislation. They do not expect us to cash our own paychecks without doing the work that we were sent here to do. Senators are paid to be in the Capitol when votes are taken. Today is such a day, yet few Senators are present.

The 1,182-page conference report before the Senate totals more than $328 billion. I hold my hand on the top of this 1,182-page conference report. Here it is. What a mammoth bill, 1,182 pages. Yet we were asked to adopt this mammoth piece of legislation by unanimous consent. The majority leader asked Senators for their consent to bring this bill up, which is in the form of a conference report, and pass it without a rollcall vote. Is that the way the American people want their business to be conducted?

This bill totals more than $328 billion. It provides funds for 11 of 15 Federal Departments. It wraps together the work of seven appropriations bills. This conference report funds our Nation's schools and highways, our veterans clinics, workplace safety initiatives, and medical research. It funds priorities that directly touch the lives of every American citizen. Yet Members of this body do not have the time, apparently, or the will, to be here at their desks in the Senate and vote on this mammoth piece of legislation. Instead of a rollcall vote, the majority leader sought unanimous consent to take up and pass this legislation by voice. My voice is not so good today but it is good enough to say no. I object to passing this bill without a rollcall.

I announced my intention days ago to object to any unanimous consent request to pass this bill without a rollcall vote. I am here, at my place, as I said I would be. Senators may have travel plans or schedule conflicts. They may prefer to be in their home States or traveling around the globe rather than be here in the Capitol. Our responsibility is here in this Chamber when we have an appropriations measure of this nature, of this size, of this importance.

Our responsibility is to work. Our responsibility is to debate and vote on this conference report. We should not have postponed this matter until next year. We should not have put this matter off for several weeks. There is no good excuse for putting this debate on hold.

Now, stop and think for a moment. We have had since April to pass these seven bills. The budget resolution was adopted in early April, on April 11.

That gave us our directions and the Appropriations Committees could go forward at that time. Here we have been since April 11 and we have only passed and sent to the President of the United States six appropriations bills. So more than half of the total of 13 appropriations bills are right here in this conference report and no Senator—no Senator and I daresay no House Members, perhaps a few—I will leave myself a little wiggle room—I can say no Senator has seen everything that is in this massive bill. No Senator, under God's heaven, knows everything that is in this conference report. No Senator's staff person knows everything that is in this conference report. This represents the people's business.

It is the people's money and Senators are asked to come here today and vote no. They were asked to come and pass this massive piece of legislation without a rollcall vote. This is an abomination. The American people deserve better from us.

I understand the reluctance of the majority leader. The leadership worries there may not be enough votes to pass the conference report and send it to the White House. But we would not know that until we voted. It is not unheard of to ask Members of the Senate to come back and vote. It has been done before. I have done it when I was majority leader. It has been done by other majority leaders. I don't criticize the current majority leader. He is doing what he thinks he has to do under the circumstances. But I think we all could have done better. I think the Members should have been asked to come back and do their work and finish the job, debate the conference report, have a rollcall vote and then go home for Christmas.

Make no mistake, there are many problems with this conference report: contracting out Federal jobs, stripping employees of bipartisan job protections, voiding an effort to protect overtime protections established by the Fair Labor Standards Act of 1938, taking away the right of as many as 8 million employees to earn time and a half for extra hours worked. Last minute closed-door changes would postpone country-of-origin labeling. Let me say that again: Last minute closed-door changes would postpone country-of-origin labeling on meat and vegetables, robbing Americans from knowing where their food was grown for 2 years and breaking the balance crafted as part of the 2002 farm bill.

The 1-year limitation on the FCC media ownership rule was turned into a permanent cap at 39 percent. The practical effect of changes demanded by the White House is to protect Rupert Murdoch's FOX Television Network and CBS-Viacom from having to comply with the lower 35-percent ownership caps a congressional version of the bill would put in place. The White House is boosting special corporate interests at the expense of the people's interest for balanced news and information.

One could go on for quite some time ticking off the problems that are in this conference report, problems dictated to Congress by the Bush White House.

There are many provisions within this package that never came before the Senate—never. Yet Senators were asked to buy a pig in a poke, to vote for a pig in a poke, unknown, unseen, yet vote by unanimous consent—no, not vote, but asked to pass this gargantuan piece of legislation here by unanimous consent without a rollcall vote.

Can you imagine, $328 billion and not even a recorded vote? What would Everett Dirksen say today? He said: A billion here and a billion there and pretty soon you have a lot of money. He should be here today. There is $328 billion. That is $328 for every minute since Jesus Christ was born. That is a lot of money. We are asked to close our eyes, plug our ears—no debate, no questions asked—just hold your nose and vote for it. Hold your nose and say: Pass it without a vote. That is what we are asked to do.

Four of the bills contained in this omnibus did not have a recorded vote in the Senate. One of the bills, the Commerce-Justice-State bill, was never even debated in the Senate, let alone adopted. Scores of provisions are included in the so-called Miscellaneous Appropriations Act portion of the conference report that were never debated in the House or Senate.

Under pressure from the White House, provisions that were approved by both the House and the Senate have been dropped. Under pressure from the White House, controversial provisions that were written as 1-year limitations when they were before the House or Senate have been mutated into permanent changes in authorization law. Now, that is going a far piece—going a fer piece, I would say. Houdini was nothing when compared with what the conference did here under pressure from the Bush White House.

In fact, the majority leadership created a new appropriations authority: the Miscellaneous Appropriations Act. That is a new one on me. There are 13 appropriations subcommittees, but I have yet to meet the chairman of the Subcommittee on Miscellaneous Appropriations.

That section, whatever its genesis, is home to administration pet projects and priorities. Scores of provisions are included in the so-called miscellaneous appropriations umbrella that were never debated in the House or Senate. Under direct pressure from the White House, provisions approved previously by both the House and the Senate have been dropped. Under pressure from the White House, controversial provisions originally crafted by the House or Senate as 1-year limitations, may I say again, have mutated into permanent changes in authorization law.

This conference report includes an across-the-board cut that has never been debated in the Senate, an arbitrary cut that would apply to legislation already signed into law. It would cut homeland security. We are talking about your safety, and your safety, Mr. President, the safety of your home, your children, your grandchildren. Homeland security is the usual term. It would cut counterterrorism efforts. It would cut education and health care. This across-the-board cut would reach back into bills signed months ago and say: No, sorry. No, no, sorry, but that is just too much money. So we are going to take a little off the top.

Apparently, in the view of the White House, the United States can afford $1.7 trillion in tax cuts. When it comes to the Medicare bill, we can afford $12 billion for subsidies for private insurance companies. When it comes to the Energy bill, we can afford over $25 billion of tax cuts and $5 billion of mandatory spending for big energy corporations. But when it comes to initiatives funded in these appropriations bills, initiatives that help Americans every day, the President insists: Cut, cut, cut, cut. A cut of 0.59 percent would reduce funding for No Child Left Behind programs by more than $73 million, resulting in 24,000 fewer children being served by title I.

We are talking about this across-the-board cut now. This across-the-board cut does not sound like it would be much, a cut of 0.59 percent, but what does it do to the No Child Left Behind program? It would reduce funding for the No Child Left Behind program by more than $73 million, resulting in 24,000 fewer children being served by title I. Overall, the title I Education for the Disadvantaged program would be $6 billion below the level authorized by the No Child Left Behind Act that the President signed in January of 2002 with great fanfare—another promise unfulfilled.

The across-the-board cut would reduce Head Start funding by $40 million, resulting in 5,500 fewer children attending Head Start. Veterans medical care funding would be cut by $159 million, resulting in 26,500 fewer veterans receiving medical care or 198,000 veterans not getting the prescription drugs they need.

I spoke earlier about cuts in homeland security. The across-the-board cut would chop funding for homeland security initiatives. How many more baggage screeners would be laid off resulting in longer lines and less security at our airports? How many flights will have fewer air marshals on board? How many fewer flights will have air marshals on board? How many more containers will come into this country uninspected? How many more illegal aliens will be able to remain in this country or how many will be able to come into this country? This is a threat to the Nation's security. How many potential terrorists will never be investigated because of cuts in the FBI program?

All this, and the distinguished majority leader sought consent that this

package be approved without a rollcall vote. That is no way to legislate. How would I feel facing my constituents and having to say: Well, it was getting close to Christmas and Members had other things they had to do; we did pass it; I wish now we would have had a rollcall vote but I wasn't there to object?

That is no way to be accountable to the American people. Taxpayers of this country rightly expect Senators to be accountable for funds drawn out of the Federal Treasury. It is your money. How many times have we heard that? I say to those who are looking at the Senate Chamber today through those electronic lenses: It is your money. How can Members be accountable when they are scattered to the four winds across the globe? What kind of perversion of the appropriations process would result in Senators approving this monstrosity without a recorded vote?

When Members took their oath of office, they pledged, standing right there at the Presiding Officer's desk with their hands on the Bible—''so help me God,'' they said—that they would support and defend the Constitution. So we have a responsibility to faithfully discharge the duties of the office of U.S. Senator. We took a pledge to do that. We took an oath to do that. We took an oath before God and man to do that. Senators did not pledge to do so just when it was convenient or when the schedule permits.

The House of Representatives saw fit to return to vote on this conference report. Why then could the Senate not do the same? We all get the same pay. Senators as well as House Members are paid to work for 12 months each year, not 10 months.

Chairman STEVENS and I worked with each Senator on the Appropriations Committee to produce 13 individual appropriations bills to send to the President. I have commended—and do so again—the senior Senator from Alaska for his effort, but the process was hijacked.

By whom? Who is doing the hijacking? The Bush White House. The White House hijacked the process. The process was hijacked by the White House and the Republican leadership in both Houses. Instead of sending 13 fiscally responsible appropriations bills to the President, the Senate was asked to close its eyes, plug its ears, and be gagged in order to rubberstamp a 1,182-page conference report combining 7 appropriations bills for 11 of the 15 Departments of the Federal Government, on an unrecorded approval of a unanimous consent request. No vote to it—no rollcall vote, no vote by division, no vote viva voce, no vote by voice, with only a handful of Senators. You could count the number of Senators in this Chamber on one hand this morning. This would be legislating without accountability.

What is the use of having elections if the voters are prevented from knowing how their Senators voted on investing $328 billion of the people's money, your money? This is wrong. The people have a right to know how their elected representatives stand on this legislation which will affect the lives of so many.

I am saddened by the majority leader's decision to postpone a vote on this legislation until January 20. This is no way to govern. We have had since April 11 to pass these seven bills. That is no way to serve the American people.

I thank the Chair, and I thank all Senators. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

HONORING REPRESENTATIVE BILL EMERSON

Mr. CHAMBLISS. Mr. President, I want to take a moment this morning to honor a dear friend of mine and a former colleague in the other Chamber, the late Congressman Bill Emerson of Missouri. On December 13, a new bridge spanning the Mississippi River at Cape Girardeau in Missouri is being dedicated to Bill who represented the people of southern Missouri in the House of Representatives with dedication and integrity for 15 years before his untimely death in 1996.

I was privileged to meet, know, and work with Bill Emerson during my freshman year in Congress. He was an example of hard work, common sense, and the ability to put differences aside to get the job done. Bill and I shared a common constituency of rural Americans and served on the House Agriculture Committee together. Bill's spirit of uncompromising principle and his ability to lead under the most difficult circumstances are assets that I have endeavored to emulate.

Bill's commitment to his family was unparalleled. His wife Jo Ann succeeded him in his congressional seat, and he would be so proud of her today for the work she is doing. His daughters, Abby, Liz, Tory, and Katharine, were the lights of his life. I have come to know all four of them over the years, and he would, again, be so proud of them.

Jo Ann has carried on Bill's legacy of building bridges between people to promote communication, trade, and civic pride and is making a mark in her own right. This is something which I know would have brought Bill a great deal of satisfaction.

Bill Emerson's habit of bridging gaps between people is captured perfectly in the Bill Emerson Memorial Bridge. This $120 million structure replaces the bridge that was built 76 years ago. It will tie together the two States of Missouri and Illinois and promote trade and progress. It is a fitting monument to a man who brought credit to his family, his community, his State, his country, and the Congress of the United States.

Bill Emerson was a dear friend. I miss him every day. What a fitting tribute to a great man and a great American.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, is the Senate still in morning business with a 10-minute limitation?

The PRESIDING OFFICER (Mr. SMITH). The Senator is correct.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak as long as I must speak. I can assure the Chair it will not be over 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia is recognized for 30 minutes.

Mr. BYRD. I thank the Chair.

(The remarks of Mr. BYRD pertaining to the introduction of S. 1997 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMMENDING KOFI ANNAN, SECRETARY GENERAL OF THE UNITED NATIONS, AND STRENGTHENING THE UNITED NATIONS

Mr. WARNER. Mr. President, I rise today to bring to the attention of my colleagues a very thoughtful article written by Kofi Annan, Secretary General of the United Nations, entitled ''Search For A New U.N. Role.''

I commend the Secretary for his strong leadership over these years, and particularly for the courage he has shown as manifested by this op-ed piece, the courage he has shown to look to the future and to take such, what you might call, corrective measures or revisions as will further strengthen the United Nations as we, the body of nations, face a very perilous and uncertain world, a world filled with threats which really have little precedent in history and weapons that have little precedent in history.

Fifty-two years ago, this humble soul was a second lieutenant in the U.S. Marine Corps and served under the United Nations banner in the Korean conflict in Korea. My service was—I say with deepest humility—very modest, for I have often said on this floor that such military service as I had in the closing months of World War II and in Korea was very modest compared to others, but it did much for me. I am continuously trying to pay back to the current generation, the men and women of the Armed Forces, what was done for me.

I simply cite that it was the U.N. banner under which the U.S. forces and the forces of a number of other nations, a coalition, fought those battles. This was the United Nations' first military mission, as I look back over this half century. Of course, we all recognize there has been no peace treaty. There has never been one signed. But also there has been no recourse to major military use of force on the Korea peninsula in this half century. So that mission of the United Nations, I would say, had a strong measure of success. To this day, our U.S. forces still serve in that theater under the U.N. banner to keep the peace on that peninsula.

As Secretary Annan notes in his oped piece, the United Nations has been greatly tested in recent years. To his credit, the Secretary has been willing to face head on these challenges to the historic institution he is privileged to lead and has led with great distinction. Indeed, one of those tests was with the United States as we approached obligations which I strongly support, obligations the President has pointed out many times, obligations to bring a greater measure of freedom to the people of Iraq. But that is history. It was clearly a lesson learned by all who participated.

Last week, Secretary Annan announced he has convened a panel to take a hard look at the mission of the U.N. and what changes the U.N. should make to ensure that it can be a relevant and effective institution in the future. The panel is expected to issue a report in the fall of 2004.

I commend the Secretary for his courage in looking to the future and tasking this panel to give their views not only to him but to the entire community of nations which proudly form the United Nations. Without a doubt, the world needs a stronger United Nations, one that can address with greater decisiveness and swiftness the challenges to freedom in the future.

I ask unanimous consent that the oped piece be printed in the RECORD.

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

[From the Los Angeles Times, Dec. 4, 2003]

SEARCH FOR A NEW U.N. ROLE

(By Kofi A. Annan)

We have come to a decisive moment in history. The great threat of nuclear confrontation between rival superpowers is now behind us. But a new and diverse constellation of threats has arisen in its place. We need to look again at the machinery of international relations. Is it up to these new challenges? If not, how does it need to be changed?

The events of the last year have exposed deep divisions among members of the United Nations on fundamental questions of policy and principle. How can we best protect ourselves against international terrorism and halt the spread of weapons of mass destruction? When is the use of force premissible—and who should decide? Does it have to be each state for itself, or will we be safer working together? Is ''preventive war'' sometimes justified, or is it simply aggression under another name? And, in a world that has become ''unipolar,'' what role should the United Nations play?

These new debates come on top of earlier ones that arose in the 1990s. Is state sovereignty an absolute and immutable principle, or does our understanding of it need to evolve? To what extent is it the international community's responsibility to prevent or resolve conflicts within states (as opposed to wars between them)—particularly when they involve genocide, ''ethnic cleansing'' or other extreme violations of human rights?

These questions cannot be left unanswered. Yet they are not the only questions. And for many people they may not even be the most urgent.

In fact, to many people in the world today, especially in poor countries, the risk of being attacked by terrorists or with weapons of mass destruction, or even of falling prey to genocide, must seem relatively remote compared to the so-called ''soft'' threats—the ever-present dangers of extreme poverty and hunger, unsafe drinking water, environmental degradation and endemic or infectious disease.

Let's not imagine that these things are unconnected with peace and security, or that we can afford to ignore them until the ''hard threats'' have been sorted out. We should have learned by now that a world of glaring inequality—between countries and within them—where many millions of people endure brutal oppression and extreme misery is never going to be a fully safe world, even for its most privileged inhabitants.

Today, the common ground we used to stand on no longer seems solid. In seeking new common ground for our collective efforts, we need to consider whether the United Nations itself is well suited to the challenges ahead.

During the last year, the United Nations has been held under a microscope. In an atmosphere of acrimony surrounding the crisis in Iraq, the importance and, indeed, the relevance of the institution have in some quarters been called into question. This was especially true at the time of the United States decision to go to war in Iraq without the explicit approval of the Security Council.

I know that over the years our record has been far from perfect. The Security Council has been unable to prevent horrendous atrocities—the rule of the Khmer Rouge in Cambodia, ethnic cleansing in the former Yugoslavia, genocide in Rwanda. But, to paraphrase Henry Cabot Lodge, the United Nations may not have brought us to heaven but it played a vital role in saving us from hell.

Peace was brought to many lands through the U.N.—Cambodia, El Salvador, Guatemala, Mozambique. We helped protect against a drift toward nuclear holocaust, including during the Cuban missile crisis. We served as a vehicle for action against North Korea, against Iraq after the invasion of Kuwait. We've brought relief to millions affected by fighting, famine and floods, and we have helped reduce child mortality and eradicate smallpox. We were critical in helping the developing world throw off the yoke of colonialism.

To my mind, recent events have only underlined the need for the United Nations. That's why I convened a panel, chaired by former Prime Minister Anand Panyarachun of Thailand, to examine the future of our organization. The panel holds its first meeting this weekend.

Its role is threefold: to analyze current and future threats to peace and security; to assess the contribution that collective action can make in meeting these threats; and to recommend the changes needed to make the United Nations a legitimate and effective instrument for a collective response. How, in particular, can the United Nations ''take effective collective measures for the prevention and removal of threats to the peace,'' which is one of its purposes, as defined in Article I of its charter? I hope the panel will complete its report by autumn 2004.

If it does its work well, history may yet remember the current crisis as a great opportunity that wise men and women used to strengthen the mechanisms of international cooperation and adapt them to the needs of the new century.

(The remarks of Mr. WARNER and Mr. DEWINE pertaining to the introduction of S. 1993 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

THANKING STAFF

Mr. WARNER. Mr. President, I wish to speak with regard to two matters of great concern to me. I recognize in all probability this will be the last day of the current session of this Congress. I simply express my warm greetings and thank-yous to my fellow colleagues in this Chamber, the staff who serve us in this Chamber, to the pages, to the guards and policemen, to those who work in the cafeterias—all of those, the greater body of infrastructure we are privileged to have in this magnificent institution known as the United States Senate.

Each year I have been privileged to be here—and I must say with some great sense of humility, I mark my 25th year in the Senate late this month. When I was sworn in, in 1978, I believe, I filled a vacancy that occurred in December, and I did it on the second or third of January. So actually my 25th anniversary occurs in the first few days of January.

It has been an enormously great, rewarding privilege for this humble soul to have served in the Senate.

I believe I have served with well over 100 Senators in addition to those I am privileged to serve with in this Congress. Again, I am always mindful of all of those who make it possible in the infrastructure and the institution of the Senate to enable me and others to serve our Nation as best we can in diverse but nevertheless constructive ways for the betterment of all mankind and, yes, America and much of the free world.

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

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

Mr. DEWINE. I ask unanimous consent to proceed as in morning business.

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

TRIBUTE TO LEWIS AND JEAN MOORE

Mr. DEWINE. Mr. President, I rise today to pay tribute to two Ohioans who dedicated their lives to serving their local community of Urbana. Lewis B. Moore passed away on October 21, 2002, at the age of 91. His wife, Jean, passed away on September 12, 2001. I would like to take a few moments to reflect here today on this couple's legacy of service and the mark they left on the people of Urbana.

Lewis Moore—Lew to his friends—was born in Paducah, KY, on July 23, 1911. He graduated from Cleveland Heights High School in 1929 and from Case Institute of Technology in Cleveland in 1933 with a bachelor of science degree in electrical engineering. He married Jean Lillian Wenger in 1938, and they moved to Urbana in 1940, where Lew joined Grimes Manufacturing Company as a sales engineer. Later he served as chief engineer, sales manager, and vice president before eventually becoming president and board chairman.

Under Lew's leadership, the company grew from 12 to more than 1,300 employees. As president, he served as a mentor to many and as an example to all. If there were ever a disagreement with a customer, Lew used to tell his employees to always be honest with the customers. He would say: ''Tell them the truth—tell them what happened.'' Indeed, Lew Moore was a model of integrity.

Together, Lew and Jean's values and visions for the future changed Urbana. Lew eventually ran for public office and served as Mayor of Urbana from 1980 to 1991. Under his leadership, Urbana underwent some big changes in the city government. Known affectionately as ''Mr. Urbana,'' Mayor Moore transformed the City of Urbana from a statutory system into a charter form of government—one of the most important of his contributions to the city government, noted Larry Wolke, former director of administration. According to David Martin, former Grimes employee and current Urbana City Council president, ''He had the best interests of the city and the citizens of Urbana in his heart and mind.''

Working side-by-side with Lew to serve the Urbana community, Jean participated in the campaign that created the city's first youth center and organized and led her church's Prayer Connection. As one Prayer Connection member, Jack Neer, said of Jean, ''She was there for anyone in need.''

No better illustration of their commitment to the interests and community of Urbana is found, however, than in Lew and Jean's involvement with the University of Urbana, where Lew served as building fundraiser and Jean served on the board of trustees for more than 35 years. Through much of their lifetimes, Lew and Jean dedicated much of their time and resources to expanding and improving the institution. As Dr. Robert Head, Urbana University president said, ''It is not an overstatement to say that if it hadn't been for Lew and Jean Moore, Urbana University would not be here today.''

Together, Jean and Lew spearheaded several campaigns to raise funds to enhance the university. In one project, they helped raise $400,000 to build the Warren G. Grimes Community Center. In the early 1990's, Lew co-chaired efforts to raise funds for the math and science center—a project totaling $3.1 million. According to Dr. Francis Hazard, former University president, ''When no one else stepped forward to head the campaign, they volunteered.'' He added that as the campaign neared its end and the structure had been completed, Moore cashed in a $75,000 insurance policy to furnish its classrooms and laboratories.

Lew and Jean Moore were selfless. They loved their community—their family, their friends, and their neighbors. It is no wonder the Urbana community affectionately refers to Lew as ''Mr. Urbana.'' Throughout their lives, they were devoted to their community. And through their service, Lew and Jean Moore provided a vision for Urbana's future. That is their legacy. We certainly miss them both deeply.

My wife Fran and I continue to remember Lew, and we continue to remember Jean. They were both great friends. Left to cherish their memories and to pass on this legacy are their sons, Keith and Greg, and their wonderful families.

We thank both Lew and Jean for their wonderful service to their community.

JUDGE WILLIAM AMMER

Mr. DEWINE. Mr. President, I would like to pay tribute here on the floor of the U.S. Senate to a dear friend, a gracious man, and a wonderful human being. That man is former Pickaway County, OH, Common Pleas Judge William Ammer. Judge Ammer, of Circleville, Ohio, passed away January 30, 2003 at the age of 83.

William Ammer was born on May 21, 1919, to Moses and Mary Ammer. He graduated from Circleville High School in 1937, and then went on to receive a business degree from the Ohio State University. After serving in the U.S. Army for 3 years during World War II, he returned to Ohio State to get his law degree.

After law school, he quickly proved himself a skilled attorney. He served as Assistant Ohio Attorney General from 1951 to 1952 and then returned to Pickaway County as a prosecuting attorney from 1955 to 1957.

During this time, he was also Circleville's Assistant City Prosecutor, while finding the time to maintain a busy private law practice. He developed a reputation as a tireless worker and dedicated public servant.

In 1957, he was appointed to the post in which he would serve the rest of his career—he was appointed Pickaway County Common Pleas Court Judge and was re-elected to this post every six years until his retirement on December 31, 1994.

While serving on the bench for those 37 years, Judge Ammer handled more than 30,000 cases. Few of these cases were appealed, and most of those cases that were appealed were affirmed by higher courts. As a member of the Senate Judiciary Committee, I can tell you that this low reversal rate is one of the best indicators of a good, sound judge.

But I can also say that another great indicator is the man's reputation in the community. Anyone who knew Judge Ammer, and anyone who knew the attorneys who practiced in Pickaway County or the area certainly knew Judge Ammer's great reputation. And they knew how well respected he was in the Pickaway County community and the surrounding counties.

In addition to handling cases in Pickaway County, Judge Ammer often was assigned to preside in other counties by the Supreme Court of Ohio. This is also the mark of a good, well-respected judge. Only those capable of handling the toughest cases are sent on assignments to other jurisdictions. Once again, Judge Ammer's reputation for hard work and diligence clearly preceded him.

While Judge Ammer was frequently sent on assignment outside of Pickaway County, his heart remained in Circleville. Each year, Judge Ammer sent out memorable Christmas cards depicting Circleville landmarks.

Certainly my wife Fran and I each year were recipients of those Christmas cards as were so many other people. And we always looked forward to receiving them. These cards reflected his love for the community and were eagerly awaited each holiday season by those of us fortunate enough to be on his Christmas card list.

Judge Ammer was also involved with a number of community organizations. He was President of the Ted Lewis Museum, an institution honoring that great native of Circleville. He was actively involved in the American Legion, the Kiwanis Club, the Pickaway Country Historical and Genealogical Society, and the Masonic Lodge.

Perhaps the greatest testament, however, to his connection to the Circleville community comes now after his death. As the last member of the Ammer family in Circleville, Judge Ammer arranged to have much of his

estate go toward providing scholarships for Circleville High School students. This act certainly reveals Judge Ammer's generous and giving nature and his desire to help other Circleville natives succeed.

In tribute to Judge Ammer, who has been a true role model for so many of us in Ohio, my wife Fran and I say thank you. Judge Ammer was a kind human being who left an unbelievable print on the lives of so many countless people who he touched. He truly helped people. He changed lives. He made a difference. We all miss him. We miss him dearly. He will always be remembered by his beloved community.

TRIBUTE TO DELBERT LATTA

Mr. DEWINE. Mr. President, this afternoon I pay tribute to a dear friend and beloved Ohioan, a man who has been a great public servant for the last half century, a man who I served with in the House of Representatives for a number of years. I am talking about Representative Delbert Latta. Representative Delbert Latta devoted 30 years of distinguished service to Ohio's 5th Congressional District in the House of Representatives. In his honor, earlier this year, President George Bush signed into law a bill that renamed the Bowling Green Ohio Post Office the Delbert L. Latta Post Office Building. This is a well-deserved tribute to a man who inspires all around him to strive to be a better public servant.

This afternoon I will take a few minutes to explain to my colleagues why Del is so revered by the citizens of the 5th District and all the citizens of Ohio. Del was raised in McComb, OH. He graduated from McComb High School and later worked in a shoestore and put himself through Ohio Northern University from where he received his undergraduate and then his law degree.

Del practiced law in Bowling Green for several years before he successfully ran for an Ohio State Senate seat. After serving three terms in the Ohio State Senate, Del Latta decided to serve his community at the Federal level and was elected to the House of Representatives in 1958.

Before retiring from the House of Representatives in 1989, constituents of Ohio's 5th District showed Del their appreciation by electing him and reelecting him 15 times. He was the dean of the Ohio Republican delegation and as dean of the delegation was deeply respected for the leadership role he played for fellow Ohio Representatives as well as for the party. He was the person to whom, frankly, we all went.

I remember when I was first elected in 1982. I remember driving north to Bowling Green and going to see Del in his office and talking to him about committee assignments. I told him I wanted to be on the Judiciary Committee if that were possible. I remember Del sitting behind his desk talking to me about that and telling me he would see what he could do about it. It was not too long after that I was on the Judiciary Committee in the House of Representatives. Del was the person you went to. Del was the person you went to for advice, for counsel, and to get things done.

Del served as leader of the Rules Committee. Del was the ranking Republican in all the House on the Budget Committee. Del was not only recognized as a key leader of the Republican Party, he was a consensus builder who also earned the respect of Members on both sides of the aisle. The Honorable Democrat Senator and Representative Claude Pepper, of Florida, had this to say about Del:

> Del's conduct as a Member of the [Rules] Committee and a Member of the House has exemplified the best and noblest traditions of this House. His integrity has been exemplary. His kindliness, gentleness and graciousness of manner have endeared him to all of his colleagues. I shall always honor the service Del Latta has rendered to the Rules Committee, to the Budget Committee and the House because what he did, he did as an able, honorable patriotic American.

Del Latta had a significant impact on so many pieces of legislation and events over his 30-year tenure in the House. One notable example is the leadership he demonstrated during Watergate, but perhaps he is best well-known as a champion of balanced budgets and fiscal responsibility. In 1981, Del spearheaded President Reagan's economic recovery program in the House by sponsoring and helping to pass the Gramm-Latta bill. This bill is often cited as the single most influential measure in stimulating America's economic recovery in the 1980s. Del Latta was there. Del Latta led. It was Del Latta who got it done.

Expressing his admiration for Del's humility and work ethic, the Honorable Chip Pashayan, Jr., of California, said this about a dinner experience he had with Del after the passage of this momentous bill that bears Del Latta's name.

> No gloating, no bragging, no brandishing. To [Del] Gramm-Latta was just another bill, just another day's work for the American people. . . . As usual, we finished dinner by 8:30 or 9 p.m. because Del had to get back to his office to do some constituent work. No constituency ever had a harder working Member that I ever saw.

I could not agree more. In 1982, when I first came to the House of Representatives, as I said, Del was instrumental in teaching me the ropes. What I admired most about Del was his ability to work with an unwavering commitment and passion for his constituents. He never forgot who sent him to Washington. He never forgot who he worked for. In everything he did, you could see how much he cared for the people he represented, the people of northwest Ohio. He understood how much he cared about our great country.

People have always come first for Del Latta. It is what drives him. He has said his greatest satisfaction comes from helping people find solutions to their problems, whether it is big problems or small problems, helping people find solutions to their problems, especially problems they could not solve on their own.

At his retirement Del said this:

> Being a representative [of Ohio's 5th district] has given me and members of my family the opportunity to make untold thousands of wonderful friendships which we shall always treasure. I will also cherish the many friendships I have made over the years with my congressional colleagues.

And to be sure, Del Latta has not finished giving of himself, certainly not. To this day, he continues to do everything he can for his community. From local businessmen to neighborhood schoolchildren, Del Latta is there for them.

The dedication of the Bowling Green Post Office in Del's name—a post office that Del once helped secure funds to build—is simply a reminder that although it has been 15 years since he has retired from the Congress, Del has continued to work tirelessly for his community. The renaming of this post office, in many ways, is a symbol—a great symbol—of the civic spirit Del stood for as a U.S. Representative and still stands for today.

So I extend my heartfelt congratulations to Del for this great honor. He has done so much for the Fifth District, for the State of Ohio, and for our Nation. I have the highest regard for the example Del has set as a leader and public servant. My wife Fran and I cherish his friendship, and we wish him and his wife Rosemary and their children Bob and Rose Ellen and their families all the best in their future.

Del Latta is a great man. I said that he has worked tirelessly for his constituents, and it is always fun to watch him do that. But there has been one thing for me that has been even more fun, and that is to watch Del Latta with his grandchildren and to hear Del Latta talk about his grandchildren because this is a man who is also a great family man; he has never lost sight of the importance of family.

So, Del Latta, congratulations. You are a man who has served our country well. You are a great family man. You are a good friend. We appreciate all you have done for our country.

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

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FITZGERALD. Mr. President, I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

Mr. FITZGERALD. I thank the Chair.

TRIBUTE TO SENATOR PAUL SIMON

Mr. FITZGERALD. Mr. President, it is with great sadness that I rise to report to my colleagues in the Senate the death of a former Member of this body, U.S. Senator Paul Simon from Illinois. Senator Simon died earlier today. He was 75 years old. This comes as a great shock to all of us who knew and loved Paul Simon.

Earlier today, I had written him a get well note and sent him some flowers. It was announced a couple of days ago that he was going into the hospital for heart bypass surgery and also to have a leaky heart valve replaced. Apparently something happened during the surgery—I don't know what—but Senator Simon, unfortunately, passed away, and we all send our love and our prayers to his wife Patty, his children, his grandchildren, and to all his colleagues at Southern Illinois University where he will be missed greatly.

Senator Simon's first wife, Jeanne, died a few years ago. I also had the privilege of knowing her. May God rest her soul as well.

Senator Simon was a nationally known figure, primarily from his having been a candidate for the Presidency in 1988. In Illinois, he was truly a giant for many decades—three or four decades or more. He served both in the State house of representatives and the Illinois State Senate, as well as in the U.S. Congress and then later in the U.S. Senate. He is thought to be the only person from Illinois to have served in both houses of the Illinois Legislature and then in both Houses of Congress.

He was also in the late sixties and early seventies the Lieutenant Governor from Illinois. On his last reelection race for the U.S. Senate, he won by over a million votes, with 65 percent. I believe he had the highest plurality of anybody running that year.

He was an extraordinary figure, extremely popular, and extremely well respected, especially for his character and integrity. Many people may have disagreed with Senator Simon's policy positions on a variety of issues, but no one ever questioned his ethics and integrity. In fact, those who served with him in the Senate, I am sure, remember his famous bow ties. Those bow ties almost became a symbol of ethics and integrity in the State of Illinois because of Senator Simon. He was a remarkable man.

He started in the early 1950s—maybe before that; maybe in the late forties—as a newspaper editor in southern Illinois. He was about 19 years of age when he was asked to take over a troubled newspaper in Troy, IL, in Madison County. He actually revived the newspaper by going after a corrupt gambling cabal in Madison County. He ultimately put together a string of some 13 newspapers that he sold in the 1960s, and then went from journalism into politics and government service; he never looked back.

He had numerous legislative accomplishments in the U.S. Senate, including the Direct Student Loan Program, the job training partnership amendments, and many other initiatives across a wide spectrum of issues. Of course, he was very accomplished in the Illinois Legislature as well.

Some people think they have done a lot when they have read a book. Senator Simon probably wrote as many books as most people have read. He is the author of at least 21 books, and maybe more than that. He had 55 honorary degrees. As I mentioned, he was a candidate for President in 1988.

One of the most astonishing things about Paul Simon was that his ethics and integrity were not just an act. I think a lot of the professional politicians maybe didn't always appreciate him in Chicago, for example. They maybe thought his bow tie and his constant efforts to maintain the highest standards in Illinois and the Federal Government were an act. But you could see after he retired from the Senate when he was offered, reportedly by foreign governments, to become a high paying lobbyist—I think one foreign government offered him over $600,000 a year to become their lobbyist, and he was offered a variety of lucrative positions. He turned all that down so he could return to Makanda, IL, down in the southern part of the State where he came from so he could teach at Southern Illinois University in Carbondale and be a professor. He turned down higher paying professorships elsewhere in the country. He wanted to come back home and be at Southern Illinois University.

He put together a wonderful public policy institute with some others there, including Mike Lawrence, who was the press secretary to our former Gov. Jim Edgar in Illinois.

I was in the area down by SIU this past summer. I had dinner with Mike Lawrence and he was telling me how hard it was to keep up with Paul Simon. Even at his age, he was keeping a remarkable schedule. So it came as a great surprise to hear of his passing today. It is a great loss. We will all miss him.

He was nothing but kind to me. Even though I was a member of the opposite party, Senator Simon last called me when I announced I would be retiring from the Senate. He was always courteous and kind in offering to help everyone he could.

I remembered from long ago reading a column that was written about Paul Simon, which I thought was a fabulous testament to this wonderful man. The column was written in the Chicago Tribune on February 28, 1997. It was by R. Bruce Dold, entitled ''In Praise of a Decent Former Politician.'' This column is written by a journalist who had covered Senator Simon for many years, including following him around on his election campaigns and seeing his interaction with people all over the State of Illinois. This reporter wrote about how he was amazed that Senator Simon would come into a small town and say hi to everybody, and he would actually know the names of their children and how their grandfather was doing.

Senator Simon had a genuine affection for people. He was a tireless worker. He held over 600 town meetings in his two terms in the Senate, which is a very tough pace to keep up with for any of us in the Senate. He was a remarkable man.

I ask unanimous consent that this commentary written by R. Bruce Dold be printed in the RECORD immediately following my remarks.

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

(See exhibit 1.)

Mr. FITZGERALD. I conclude by saying that Senator Paul Simon was a credit to the State of Illinois and a credit to the Senate, and we will miss him. God rest his soul and may God bless his widow and family.

EXHIBIT 1

[From the Chicago Tribune, Feb. 28, 1997]

IN PRAISE OF A DECENT FORMER POLITICIAN

(By R. Bruce Dold)

One of my best lessons in southern Illinois politics came with Paul Simon's 1984 campaign for the U.S. Senate, the one where he dusted Sen. Charles Percy and made amends for his one big political loss, the 1972 bid for governor.

Simon planned to hit about 13 towns in one day, moving from Vandalia to Cairo and over to Carbondale, with a brief stop at his Makanda home to show off his Lincoln book collection to the handful of reporters with him. He'd be meandering over a few hundred miles, which normally would require a helicopter. For Simon, all it required was Joe Bob Pierce.

Joe Bob is something of a Renaissance man—an electric power lineman with a Baptist divinity school degree who can drive like a bat out of hell, that last talent being the one Simon required that day.

So the trip went like this. We would drive to the Franklin county Courthouse public square, and Simon would give a little speech, and then he would do the real campaigning. This amounted to greeting each person in the crowd by her first name and inquiring about her children and her frail grandfather, and then moving on to the next soul with a hearty ''nice to see you.''

Then we would pile into Joe Bob's car and he would hit triple digit m.p.h. on Rt. 142 until we barreled into the parking lot of the Saline Valley Conservancy District, where Simon would do it all over again.

And I realized by the second stop that he actually knew all of these people, and the ages of their kids, and the health status of their grandfathers.

Simon wasn't supposed to win that election but he did, in part because he swept most of Southern Illinois.

He's back home now after ending an impressive career in politics. He's believed to be the only person who ever served in the Illinois and U.S. House and Senate.

On paper, his career makes no sense. Before politics, he was a newspaper editor who shook things up in a part of Illinois that liked things calm. He was too liberal for his congressional district, too liberal for this state, too liberal for Congress. He was a bigger-government advocate in a little-government era. Didn't matter. People thought he

cared about them. He won his last Senate race by almost 1 million votes.

A few Washington types, and a few well-known Chicago politicians, still believe it was an act, that Simon was just another pol who had perfected a gee-whiz persona and the public got snookered into buying it. And while I always liked Paul Simon, I was also suspicious enough of politics in general to keep alive the prospect that they might be right.

OK, now that he's retired, it's safe to say that they are wrong.

When Simon left the Senate and there was no electoral advantage to being pure, he still did the right thing.

He turned down offers to lobby in Washington—one offer was for $600,000 a year to work for foreign governments. I'm taking his word on this—there's that suspicion rising again. But in the years I've known him he hasn't given me reason not to take his word.

He also turned down several teaching offers at better-known schools around the country to take a job running the new Public Policy Institute at Southern Illinois University in Carbondale, near his home.

Nobody needs to hold a tag day for him, since he's drawing $120,000 a year from SIU. But they offered him $140,000 and he requested a $20,000 cut so he wouldn't be paid more than the chancellor. That's the kind of gesture that makes the political cynics snicker, and makes the rest of the world think Paul Simon is a very decent guy.

Now that Simon's back home and doesn't have to be concerned about his own elections, he could be more of a political broker in this state.

He proved he could transfer his credibility and popularity last year when Richard Durbin was a relatively unknown central Illinois congressman making his introductions to Chicagoans at the same time he was asking them to send him to the Senate. Nobody up here knew Richard Durbin from Richard Burton. But Simon's endorsement, repeated on television commercials, was gold. It gave Durbin instant credibility and carried him to the election.

So Simon could throw his weight around. He intends not to. Other than supporting Sen. Carol Moseley-Braun's re-election bid, he's planning to lay low in politics.

He could be a big factor in the Democratic primary for governor next year. Lots of people want to run. But it looks like Simon won't play the game. He told me this week he's been approached by several potential candidates, but doesn't plan to endorse anybody. He's happy teaching his government and non-fiction writing courses and doesn't want to taint his new institute with the smell of partisan politics.

''I anticipate I will be less involved in party activities than I was before,'' he said. ''I have to be reaching out to both political parties.''

For a political writer in Chicago, saying something kind about a politician is akin to volunteering to put a kick-me sign on your back. But here goes: the people were right all along, Paul Simon really is a very decent guy.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DEWINE. Mr. President, we have all just heard the sad news about our former colleague, Senator Simon, from the Senator from Illinois. There will be opportunities in the future for more formal comments from many Members of the Senate, but I thought this afternoon I would make a few brief comments about our colleague Paul Simon.

I had the opportunity to serve in the Senate with Paul, but I also had the opportunity for a few years to serve in the House of Representatives with Paul. What a treat it was to serve in both bodies with Paul. Shortly after I came to the House, I discovered that when Paul Simon came to the well of the House of Representatives, he was someone to come into the House Chamber and listen to because no matter what the topic, we could count on the fact that he was going to give a thoughtful speech. You might agree with him, you might not agree with him, but you could bet that this man of great integrity had thought through what he was going to say. You can bet that he truly believed what he was saying.

Members would listen to Paul Simon, whether it was in the House or Senate. Paul Simon was a man of great integrity. When he spoke, it was clear he was a man of great moral clarity in his comments and thoughts. There was great precision to those thoughts.

We all know that Paul Simon was first, in his career, maybe first and foremost, a writer. He started, as my colleague from Illinois has just said, at a newspaper. Some have labeled him as a crusading newspaper editor. That is how he got his start. He continued to write throughout his career, writing his columns back to his home State and writing books.

I was back home in Ohio at the house of my daughter and son-in-law this past weekend and I happened to look down and there was what I took to be one of Paul's newest books. I picked it up and read a few pages. There was Paul again, being very provocative, being very thoughtful. He made me think. That was Paul.

One of the books Paul wrote many, many years ago continues to be cited today. Anybody who reads a biography of Abraham Lincoln will find the work of Paul Simon in that book because, you see, Paul Simon wrote the definitive book about Abraham Lincoln's time in the Illinois Legislature. So whatever definitive biography you read of Abraham Lincoln, it will cite Paul Simon's book for that period of Abraham Lincoln's life.

Paul Simon was asked once why he wrote the book. He said he had discovered there just hadn't been a good book written on that period of Abraham Lincoln's life, so Paul Simon wrote it. He did the research, dug the information out, and wrote the book. It is still the definitive book.

Paul Simon was, more than anything else, a teacher. You could see that in his speeches on the Senate floor and the House floor before that. You could see that, really, in his columns, his writings. So I think it is fitting that at the end of his career, as Senator FITZGERALD said, he went home. He went home to southern Illinois. He created this great institute at southern Illinois, his home community. He brought in great speakers, talked about big topics, great topics that we have to deal with in our country. He headed that up, put it together, and dealt with those issues.

He ended his life as a teacher, what he really was throughout his entire career, beginning as a newspaper man: Paul Simon the teacher. So as he taught us in the Senate, as he taught us in the House of Representatives, he ended his life as a teacher to young people in his home of Carbondale, in southern Illinois. I think that is clearly the way Paul Simon wanted it. I think it is fitting that is how he ended his life.

This is a sad day for the Senate. It is a sad day, certainly, for Illinois, and for his country. But we can take joy in this very good man's life and what he has done for our country and what he ended his life doing for our young people.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

IMPROVED NUTRITION AND PHYSICAL ACTIVITY ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 417, S. 1172.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1172) to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Health, Education, Labor, and Pensions with an amendment in the nature of a substitute, as follows:

(Strike the part shown in black brackets and insert the part printed in italic.)

S. 1172

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

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Improved Nutrition and Physical Activity Act'' or the ''IMPACT Act''.

[SEC. 2. FINDINGS.

[Congress makes the following findings:

[(1) An estimated 61 percent of adults and 13 percent of children and adolescents in the Nation are overweight or obese.

[(2) The prevalence of obesity and being overweight is increasing among all age groups. There are twice the number of overweight children and 3 times the number of overweight adolescents as there were 29 years ago.

[(3) An estimated 300,000 deaths a year are associated with being overweight or obese.

[(4) Obesity and being overweight are associated with an increased risk for heart disease (the leading cause of death), cancer (the second leading cause of death), diabetes (the 6th leading cause of death), and musculoskeletal disorders.

[(5) Individuals who are obese have a 50 to 100 percent increased risk of premature death.

[(6) The Healthy People 2010 goals identify obesity and being overweight as one of the Nation's leading health problems and include objectives of increasing the proportion of adults who are at a healthy weight, reducing the proportion of adults who are obese, and reducing the proportion of children and adolescents who are overweight or obese.

[(7) Another goal of Healthy People 2010 is to eliminate health disparities among different segments of the population. Obesity is a health problem that disproportionally impacts medically underserved populations.

[(8) The United States Surgeon General's report ''A Call To Action'' lists the treatment and prevention of obesity as a top national priority.

[(9) The estimated direct and indirect annual cost of obesity in the United States is $117,000,000,000 (exceeding the cost of tobacco-related illnesses) and appears to be rising dramatically. This cost can potentially escalate markedly as obesity rates continue to rise and the medical complications of obesity are emerging at even younger ages. Therefore, the total disease burden will most likely increase, as well as the attendant health-related costs.

[(10) Weight control programs should promote a healthy lifestyle including regular physical activity and healthy eating, as consistently discussed and identified in a variety of public and private consensus documents, including ''A Call To Action'' and other documents prepared by the Department of Health and Human Services and other agencies.

[(11) Eating preferences and habits are established in childhood.

[(12) Poor eating habits are a risk factor for the development of eating disorders and obesity.

[(13) Simply urging overweight individuals to be thin has not reduced the prevalence of obesity and may result in other problems including body dissatisfaction, low self-esteem, and eating disorders.

[(14) Effective interventions for promoting healthy eating behaviors should promote healthy lifestyle and not inadvertently promote unhealthy weight management techniques.

[(15) Binge Eating is associated with obesity, heart disease, gall bladder disease, and diabetes.

[(16) Anorexia Nervosa, an eating disorder from which 0.5 to 3.7 percent of American women will suffer in their lifetime, is associated with serious health consequences including heart failure, kidney failure, osteoporosis, and death. In fact, Anorexia Nervosa has the highest mortality rate of all psychiatric disorders, placing a young woman with Anorexia at 18 times the risk of death of other women her age.

[(17) Anorexia Nervosa and Bulimia Nervosa usually appears in adolescence.

[(18) Bulimia Nervosa, an eating disorder from which an estimated 1.1 to 4.2 percent of American women will suffer in their lifetime, is associated with cardiac, gastrointestinal, and dental problems, including irregular heartbeats, gastric ruptures, peptic ulcers, and tooth decay.

[(19) On the 1999 Youth Risk Behavior Survey, 7.5 percent of high school girls reported recent use of laxatives or vomiting to control their weight.

[(20) Binge Eating Disorder is characterized by frequent episodes of uncontrolled overeating, with an estimated 2 to 5 percent of Americans experiencing this disorder in a 6-month period.

[(21) Eating disorders are commonly associated with substantial psychological problems, including depression, substance abuse, and suicide.

[(22) Eating disorders of all types are more common in women than men.

[TITLE I—TRAINING GRANTS

[SEC. 101. GRANTS TO PROVIDE TRAINING FOR HEALTH PROFESSION STUDENTS.

[Section 747(c)(3) of title VII of the Public Health Service Act (42 U.S.C. 293k(c)(3)) is amended by striking ''and victims of domestic violence'' and inserting ''victims of domestic violence, individuals (including children) who are overweight or obese (as such terms are defined in section 399W(j)) and at risk for related serious and chronic medical conditions, and individuals who suffer from eating disorders''.

[SEC. 102. GRANTS TO PROVIDE TRAINING FOR HEALTH PROFESSIONALS.

[Section 399Z of the Public Health Service Act (42 U.S.C. 280h–3) is amended—

[(1) in subsection (b), by striking ''2005'' and inserting ''2007'';

[(2) by redesignating subsection (b) as subsection (c); and

[(3) by inserting after subsection (a) the following:

[''(b) GRANTS.—

[''(1) IN GENERAL.—The Secretary may award grants to eligible entities to train primary care physicians and other licensed or certified health professionals on how to identify, treat, and prevent obesity or eating disorders and aid individuals who are overweight, obese, or who suffer from eating disorders.

[''(2) APPLICATION.—An entity that desires a grant under this subsection shall submit an application at such time, in such manner, and containing such information as the Secretary may require, including a plan for the use of funds that may be awarded and an evaluation of the training that will be provided.

[''(3) USE OF FUNDS.—An entity that receives a grant under this subsection shall use the funds made available through such grant to—

[''(A) use evidence-based findings or recommendations that pertain to the prevention and treatment of obesity, being overweight, and eating disorders to conduct educational conferences, including Internet-based courses and teleconferences, on—

[''(i) how to treat or prevent obesity, being overweight, and eating disorders;

[''(ii) the link between obesity and being overweight and related serious and chronic medical conditions;

[''(iii) how to discuss varied strategies with patients from at-risk and diverse populations to promote positive behavior change and healthy lifestyles to avoid obesity, being overweight, and eating disorders;

[''(iv) how to identify overweight and obese patients and those who are at risk for obesity and being overweight or suffer from eating disorders and, therefore, at risk for related serious and chronic medical conditions; and

[''(v) how to conduct a comprehensive assessment of individual and familial health risk factors; and

[''(B) evaluate the effectiveness of the training provided by such entity in increasing knowledge and changing attitudes and behaviors of trainees.''.

[TITLE II—COMMUNITY-BASED SOLUTIONS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION

[SEC. 201. GRANTS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION.

[Part Q of title III of the Public Health Service Act (42 U.S.C. 280h et seq.) is amended by striking section 399W and inserting the following:

[''SEC. 399W. GRANTS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION.

[''(a) ESTABLISHMENT.—

[''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the Administrator of the Health Resources and Services Administration, the Director of the Indian Health Service, the Secretary of Education, the Secretary of Agriculture, the Secretary of the Interior, the Director of the National Institutes of Health, the Director of the Office of Women's Health, and the heads of other appropriate agencies, shall award competitive grants to eligible entities to plan and implement programs that promote healthy eating behaviors and physical activity to prevent eating disorders, obesity, being overweight, and related serious and chronic medical conditions. Such grants may be awarded to target at-risk populations including youth, adolescent girls, racial and ethnic minorities, and the underserved.

[''(2) TERM.—The Secretary shall award grants under this subsection for a period not to exceed 4 years.

[''(b) AWARD OF GRANTS.—An eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

[''(1) a plan describing a comprehensive program of approaches to encourage healthy eating behaviors and healthy levels of physical activity;

[''(2) the manner in which the eligible entity will coordinate with appropriate State and local authorities, including—

[''(A) State and local educational agencies;

[''(B) departments of health;

[''(C) chronic disease directors;

[''(D) State directors of programs under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

[''(E) 5-a-day coordinators;

[''(F) governors' councils for physical activity and good nutrition; and

[''(G) State and local parks and recreation departments; and

[''(3) the manner in which the applicant will evaluate the effectiveness of the program carried out under this section.

[''(c) COORDINATION.—In awarding grants under this section, the Secretary shall ensure that the proposed programs are coordinated in substance and format with programs currently funded through other Federal agencies and operating within the community including the Physical Education Program (PEP) of the Department of Education.

[''(d) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

[''(1) a city, county, tribe, territory, or State;

[''(2) a State educational agency;

[''(3) a tribal educational agency;

[''(4) a local educational agency;

[''(5) a federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4));

[''(6) a rural health clinic;

[''(7) a health department;

[''(8) an Indian Health Service hospital or clinic;

[''(9) an Indian tribal health facility;

[''(10) an urban Indian facility;

[''(11) any health care service provider;

[''(12) an accredited university or college; or

[''(13) any other entity determined appropriate by the Secretary.

[''(e) USE OF FUNDS.—An eligible entity that receives a grant under this section shall use the funds made available through the grant to—

[''(1) carry out community-based activities including—

[''(A) planning and implementing environmental changes that promote physical activity;

[''(B) forming partnerships and activities with businesses and other entities to increase physical activity levels and promote healthy eating behaviors at the workplace and while traveling to and from the workplace;

[''(C) forming partnerships with entities, including schools, faith-based entities, and other facilities providing recreational services, to establish programs that use their facilities for after school and weekend community activities;

[''(D) establishing incentives for retail food stores, farmer's markets, food coops, grocery stores, and other retail food outlets that offer nutritious foods to encourage such stores and outlets to locate in economically depressed areas;

[''(E) forming partnerships with senior centers and nursing homes to establish programs for older people to foster physical activity and healthy eating behaviors;

[''(F) forming partnerships with day care facilities to establish programs that promote healthy eating behaviors and physical activity; and

[''(G) providing community educational activities targeting good nutrition;

[''(2) carry out age-appropriate school-based activities including—

[''(A) developing and testing educational curricula and intervention programs designed to promote healthy eating behaviors and habits in youth, which may include—

[''(i) after hours physical activity programs;

[''(ii) increasing opportunities for students to make informed choices regarding healthy eating behaviors; and

[''(iii) science-based interventions with multiple components to prevent eating disorders including nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and learning life skills (such as stress management, communication skills, problem-solving and decisionmaking skills), as well as consideration of cultural and developmental issues, and the role of family, school, and community;

[''(B) providing education and training to educational professionals regarding a healthy lifestyle and a healthy school environment;

[''(C) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors and physical activity; and

[''(D) planning and implementing healthy lifestyle classes or programs for parents or guardians, with an emphasis on healthy eating behaviors and physical activity;

[''(3) carry out activities through the local health care delivery systems including—

[''(A) promoting healthy eating behaviors and physical activity services to treat or prevent eating disorders, being overweight, and obesity;

[''(B) providing patient education and counseling to increase physical activity and promote healthy eating behaviors; and

[''(C) providing community education on good nutrition and physical activity to develop a better understanding of the relationship between diet, physical activity, and eating disorders, obesity, or being overweight; or

[''(4) other activities determined appropriate by the Secretary.

[''(f) MATCHING FUNDS.—In awarding grants under subsection (a), the Secretary may give priority to eligible entities who provide matching contributions. Such non-Federal contributions may be cash or in kind, fairly evaluated, including plant, equipment, or services.

[''(g) TECHNICAL ASSISTANCE.—The Secretary may set aside an amount not to exceed 10 percent of the total amount appropriated for a fiscal year under subsection (k) to permit the Director of the Centers for Disease Control and Prevention to provide grantees with technical support in the development, implementation, and evaluation of programs under this section and to disseminate information about effective strategies and interventions in preventing and treating obesity and eating disorders through the promotion of healthy eating behaviors and physical activity.

[''(h) LIMITATION ON ADMINISTRATIVE COSTS.—An eligible entity awarded a grant under this section may not use more than 10 percent of funds awarded under such grant for administrative expenses.

[''(i) REPORT.—Not later than 6 years after the date of enactment of the Improved Nutrition and Physical Activity Act, the Director of the Centers for Disease Control and Prevention shall review the results of the grants awarded under this section and other related research and identify programs that have demonstrated effectiveness in healthy eating behaviors and physical activity in youth.

[''(j) DEFINITIONS.—In this section:

[''(1) ANOREXIA NERVOSA.—The term 'Anorexia Nervosa' means an eating disorder characterized by self-starvation and excessive weight loss.

[''(2) BINGE EATING DISORDER.—The term 'binge eating disorder' means a disorder characterized by frequent episodes of uncontrolled eating.

[''(3) BULIMIA NERVOSA.—The term 'Bulimia Nervosa' means an eating disorder characterized by excessive food consumption, followed by inappropriate compensatory behaviors, such as self-induced vomiting, misuse of laxatives, fasting, or excessive exercise.

[''(4) EATING DISORDERS.—The term 'eating disorders' means disorders of eating, including Anorexia Nervosa, Bulimia Nervosa, and binge eating disorder.

[''(5) HEALTHY EATING BEHAVIORS.—The term 'healthy eating behaviors' means—

[''(A) eating in quantities adequate to meet, but not in excess of, daily energy needs;

[''(B) choosing foods to promote health and prevent disease;

[''(C) eating comfortably in social environments that promote healthy relationships with family, peers, and community; and

[''(D) eating in a manner to acknowledge internal signals of hunger and satiety.

[''(6) OBESE.—The term 'obese' means an adult with a Body Mass Index (BMI) of 30 kg/m^2 or greater.

[''(7) OVERWEIGHT.—The term 'overweight' means an adult with a Body Mass Index (BMI) of 25 to 29.9 kg/m^2 and a child or adolescent with a BMI at or above the 95th percentile on the revised Centers for Disease Control and Prevention growth charts or another appropriate childhood definition, as defined by the Secretary.

[''(8) YOUTH.—The term 'youth' means individuals not more than 18 years old.

[''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $60,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008. Of the funds appropriated pursuant to this subsection, the following amounts shall be set aside for activities related to eating disorders:

[''(1) $5,000,000 for fiscal year 2004.

[''(2) $5,500,000 for fiscal year 2005.

[''(3) $6,000,000 for fiscal year 2006.

[''(4) $6,500,000 for fiscal year 2007.

[''(5) $1,000,000 for fiscal year 2008.''

[SEC. 202. NATIONAL CENTER FOR HEALTH STATISTICS.

[Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended by striking subsection (n) and inserting the following:

[''(n)(1) The Secretary, acting through the Center, may provide for the—

[''(A) collection of data for determining the fitness levels and energy expenditure of children and youth; and

[''(B) analysis of data collected as part of the National Health and Nutrition Examination Survey and other data sources.

[''(2) In carrying out paragraph (1), the Secretary, acting through the Center, may make grants to States, public entities, and nonprofit entities.

[''(3) The Secretary, acting through the Center, may provide technical assistance, standards, and methodologies to grantees supported by this subsection in order to maximize the data quality and comparability with other studies.''.

[SEC. 203. STUDY OF THE FOOD SUPPLEMENT AND NUTRITION PROGRAMS OF THE DEPARTMENT OF AGRICULTURE.

[(a) IN GENERAL.—The Secretary of Agriculture shall request that the Institute of Medicine conduct, or contract with another entity to conduct, a study on the food and nutrition assistance programs run by the Department of Agriculture.

[(b) CONTENT.—Such study shall—

[(1) investigate whether the nutrition programs and nutrition recommendations are based on the latest scientific evidence;

[(2) investigate whether the food assistance programs contribute to either preventing or enhancing obesity and being overweight in children, adolescents, and adults;

[(3) investigate whether the food assistance programs can be improved or altered to contribute to the prevention of obesity and becoming overweight; and

[(4) identify obstacles that prevent or hinder the programs from achieving their objectives.

[(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary of Agriculture shall submit to the appropriate committees of Congress a report containing the results of the Institute of Medicine study authorized under this section.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $750,000 for fiscal years 2003 and 2004.

[SEC. 204. HEALTH DISPARITIES REPORT.

[Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director of the Agency for Healthcare Research and Quality shall review all research that results from the activities outlined in this Act and determine if particular information may be important to the report on health disparities required by section 903(c)(3) of the Public Health Service Act (42 U.S.C. 299a–1(c)(3)).

[SEC. 205. PREVENTIVE HEALTH SERVICES BLOCK GRANT.

[Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w–3(a)(1)) is amended by adding at the end the following:

[''(H) Activities and community education programs designed to address and prevent overweight, obesity, and eating disorders through effective programs to promote healthy eating, and exercise habits and behaviors.''.

[SEC. 206. REPORT ON OBESITY RESEARCH.

[(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on research conducted on causes and health implications of obesity and being overweight.

[(b) CONTENT.—The report described in subsection (a) shall contain—

[(1) descriptions on the status of relevant, current, ongoing research being conducted in the Department of Health and Human Services including research at the National Institutes of Health, the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality, the Health Resources and Services Administration, and other offices and agencies;

[(2) information about what these studies have shown regarding the causes of, prevention of, and treatment of, overweight and obesity; and

[(3) recommendations on further research that is needed, including research among diverse populations, the department's plan for conducting such research, and how current knowledge can be disseminated.

[SEC. 207. REPORT ON A NATIONAL CAMPAIGN TO CHANGE CHILDREN'S HEALTH BEHAVIORS AND REDUCE OBESITY.

[Section 399Y of the Public Health Service Act (42 U.S.C. 280h–2) is amended—

[(1) by redesignating subsection (b) as subsection (c); and

[(2) by inserting after subsection (a) the following:

[''(b) REPORT.—The Secretary shall evaluate the effectiveness of the campaign described in subsection (a) in changing children's behaviors and reducing obesity and shall report such results to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives.''.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Improved Nutrition and Physical Activity Act'' or the ''IMPACT Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) An estimated 61 percent of adults and 13 percent of children and adolescents in the Nation are overweight or obese.

(2) The prevalence of obesity and being overweight is increasing among all age groups. There are twice the number of overweight children and 3 times the number of overweight adolescents as there were 29 years ago.

(3) An estimated 300,000 deaths a year are associated with being overweight or obese.

(4) Obesity and being overweight are associated with an increased risk for heart disease (the leading cause of death), cancer (the second leading cause of death), diabetes (the 6th leading cause of death), and musculoskeletal disorders.

(5) Individuals who are obese have a 50 to 100 percent increased risk of premature death.

(6) The Healthy People 2010 goals identify obesity and being overweight as one of the Nation's leading health problems and include objectives of increasing the proportion of adults who are at a healthy weight, reducing the proportion of adults who are obese, and reducing the proportion of children and adolescents who are overweight or obese.

(7) Another goal of Healthy People 2010 is to eliminate health disparities among different segments of the population. Obesity is a health problem that disproportionally impacts medically underserved populations.

(8) The United States Surgeon General's report ''A Call To Action'' lists the treatment and prevention of obesity as a top national priority.

(9) The estimated direct and indirect annual cost of obesity in the United States is $117,000,000,000 (exceeding the cost of tobacco-related illnesses) and appears to be rising dramatically. This cost can potentially escalate markedly as obesity rates continue to rise and the medical complications of obesity are emerging at even younger ages. Therefore, the total disease burden will most likely increase, as well as the attendant health-related costs.

(10) Weight control programs should promote a healthy lifestyle including regular physical activity and healthy eating, as consistently discussed and identified in a variety of public and private consensus documents, including ''A Call To Action'' and other documents prepared by the Department of Health and Human Services and other agencies.

(11) Eating preferences and habits are established in childhood.

(12) Poor eating habits are a risk factor for the development of eating disorders and obesity.

(13) Simply urging overweight individuals to be thin has not reduced the prevalence of obesity and may result in other problems including body dissatisfaction, low self-esteem, and eating disorders.

(14) Effective interventions for promoting healthy eating behaviors should promote healthy lifestyle and not inadvertently promote unhealthy weight management techniques.

(15) Binge Eating is associated with obesity, heart disease, gall bladder disease, and diabetes.

(16) Anorexia Nervosa, an eating disorder from which 0.5 to 3.7 percent of American women will suffer in their lifetime, is associated with serious health consequences including heart failure, kidney failure, osteoporosis, and death. In fact, Anorexia Nervosa has the highest mortality rate of all psychiatric disorders, placing a young woman with Anorexia Nervosa at 18 times the risk of death of other women her age.

(17) Anorexia Nervosa and Bulimia Nervosa usually appears in adolescence.

(18) Bulimia Nervosa, an eating disorder from which an estimated 1.1 to 4.2 percent of American women will suffer in their lifetime, is associated with cardiac, gastrointestinal, and dental problems, including irregular heartbeats, gastric ruptures, peptic ulcers, and tooth decay.

(19) On the 1999 Youth Risk Behavior Survey, 7.5 percent of high school girls reported recent use of laxatives or vomiting to control their weight.

(20) Binge Eating Disorder is characterized by frequent episodes of uncontrolled overeating, with an estimated 2 to 5 percent of Americans experiencing this disorder in a 6-month period.

(21) Eating disorders are commonly associated with substantial psychological problems, including depression, substance abuse, and suicide.

(22) Eating disorders of all types are more common in women than men.

TITLE I—TRAINING GRANTS

SEC. 101. GRANTS TO PROVIDE TRAINING FOR HEALTH PROFESSION STUDENTS.

Section 747(c)(3) of title VII of the Public Health Service Act (42 U.S.C. 293k(c)(3)) is amended by striking ''and victims of domestic violence'' and inserting ''victims of domestic violence, individuals (including children) who are overweight or obese (as such terms are defined in section 399W(j)) and at risk for related serious and chronic medical conditions, and individuals who suffer from eating disorders''.

SEC. 102. GRANTS TO PROVIDE TRAINING FOR HEALTH PROFESSIONALS.

Section 399Z of the Public Health Service Act (42 U.S.C. 280h–3) is amended—

(1) in subsection (b), by striking ''2005'' and inserting ''2007'';

(2) by redesignating subsection (b) as subsection (c); and

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

''(b) GRANTS.—

''(1) IN GENERAL.—The Secretary may award grants to eligible entities to train primary care physicians and other licensed or certified health professionals on how to identify, treat, and prevent obesity or eating disorders and aid individuals who are overweight, obese, or who suffer from eating disorders.

''(2) APPLICATION.—An entity that desires a grant under this subsection shall submit an application at such time, in such manner, and containing such information as the Secretary may require, including a plan for the use of funds that may be awarded and an evaluation of the training that will be provided.

''(3) USE OF FUNDS.—An entity that receives a grant under this subsection shall use the funds made available through such grant to—

''(A) use evidence-based findings or recommendations that pertain to the prevention and treatment of obesity, being overweight, and eating disorders to conduct educational conferences, including Internet-based courses and teleconferences, on—

''(i) how to treat or prevent obesity, being overweight, and eating disorders;

''(ii) the link between obesity and being overweight and related serious and chronic medical conditions;

''(iii) how to discuss varied strategies with patients from at-risk and diverse populations to promote positive behavior change and healthy lifestyles to avoid obesity, being overweight, and eating disorders;

''(iv) how to identify overweight and obese patients and those who are at risk for obesity and being overweight or suffer from eating disorders and, therefore, at risk for related serious and chronic medical conditions;

''(v) how to conduct a comprehensive assessment of individual and familial health risk factors; and

''(B) evaluate the effectiveness of the training provided by such entity in increasing knowledge and changing attitudes and behaviors of trainees.''.

TITLE II—COMMUNITY-BASED SOLUTIONS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION

SEC. 201. GRANTS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION.

Part Q of title III of the Public Health Service Act (42 U.S.C. 280h et seq.) is amended by striking section 399W and inserting the following:

''SEC. 399W. GRANTS TO INCREASE PHYSICAL ACTIVITY AND IMPROVE NUTRITION.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and in coordination with the Administrator of the Health Resources and Services Administration, the Director of the Indian Health Service, the Secretary of Education, the Secretary of Agriculture, the Secretary of the Interior, the Director of the National Institutes of Health, the Director of the Office of Women's Health, and the heads of other appropriate agencies, shall award competitive grants to eligible entities to plan and implement programs that promote healthy eating behaviors and physical activity to prevent eating disorders, obesity, being overweight, and related serious and chronic medical conditions. Such grants may be awarded to target at-risk populations including youth, adolescent girls,

health disparity populations (as defined in section 485E(d)), and the underserved.

''(2) TERM.—The Secretary shall award grants under this subsection for a period not to exceed 4 years.

''(b) AWARD OF GRANTS.—An eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

''(1) a plan describing a comprehensive program of approaches to encourage healthy eating behaviors and healthy levels of physical activity;

''(2) the manner in which the eligible entity will coordinate with appropriate State and local authorities, including—

''(A) State and local educational agencies;

''(B) departments of health;

''(C) chronic disease directors;

''(D) State directors of programs under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

''(E) 5-a-day coordinators;

''(F) Governors' councils for physical activity and good nutrition;

''(G) State and local parks and recreation departments; and

''(H) State and local departments of transportation and city planning; and

''(3) the manner in which the applicant will evaluate the effectiveness of the program carried out under this section.

''(c) COORDINATION.—In awarding grants under this section, the Secretary shall ensure that the proposed programs are coordinated in substance and format with programs currently funded through other Federal agencies and operating within the community including the Physical Education Program (PEP) of the Department of Education.

''(d) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

''(1) a city, county, tribe, territory, or State;

''(2) a State educational agency;

''(3) a tribal educational agency;

''(4) a local educational agency;

''(5) a federally qualified health center (as defined in section 1861(aa)(4) of the Social Security Act (42 U.S.C. 1395x(aa)(4));

''(6) a rural health clinic;

''(7) a health department;

''(8) an Indian Health Service hospital or clinic;

''(9) an Indian tribal health facility;

''(10) an urban Indian facility;

''(11) any health provider;

''(12) an accredited university or college;

''(13) a community-based organization;

''(14) a local city planning agency; or

''(15) any other entity determined appropriate by the Secretary.

''(e) USE OF FUNDS.—An eligible entity that receives a grant under this section shall use the funds made available through the grant to—

''(1) carry out community-based activities including—

''(A) city planning, transportation initiatives, and environmental changes that help promote physical activity, such as increasing the use of walking or bicycling as a mode of transportation;

''(B) forming partnerships and activities with businesses and other entities to increase physical activity levels and promote healthy eating behaviors at the workplace and while traveling to and from the workplace;

''(C) forming partnerships with entities, including schools, faith-based entities, and other facilities providing recreational services, to establish programs that use their facilities for after school and weekend community activities;

''(D) establishing incentives for retail food stores, farmer's markets, food co-ops, grocery stores, and other retail food outlets that offer nutritious foods to encourage such stores and outlets to locate in economically depressed areas;

''(E) forming partnerships with senior centers and nursing homes to establish programs for older people to foster physical activity and healthy eating behaviors;

''(F) forming partnerships with daycare facilities to establish programs that promote healthy eating behaviors and physical activity; and

''(G) providing community educational activities targeting good nutrition;

''(2) carry out age-appropriate school-based activities including—

''(A) developing and testing educational curricula and intervention programs designed to promote healthy eating behaviors and habits in youth, which may include—

''(i) after hours physical activity programs;

''(ii) increasing opportunities for students to make informed choices regarding healthy eating behaviors; and

''(iii) science-based interventions with multiple components to prevent eating disorders including nutritional content, understanding and responding to hunger and satiety, positive body image development, positive self-esteem development, and learning life skills (such as stress management, communication skills, problem-solving and decisionmaking skills), as well as consideration of cultural and developmental issues, and the role of family, school, and community;

''(B) providing education and training to educational professionals regarding a healthy lifestyle and a healthy school environment;

''(C) planning and implementing a healthy lifestyle curriculum or program with an emphasis on healthy eating behaviors and physical activity; and

''(D) planning and implementing healthy lifestyle classes or programs for parents or guardians, with an emphasis on healthy eating behaviors and physical activity;

''(3) carry out activities through the local health care delivery systems including—

''(A) promoting healthy eating behaviors and physical activity services to treat or prevent eating disorders, being overweight, and obesity;

''(B) providing patient education and counseling to increase physical activity and promote healthy eating behaviors; and

''(C) providing community education on good nutrition and physical activity to develop a better understanding of the relationship between diet, physical activity, and eating disorders, obesity, or being overweight; or

''(4) other activities determined appropriate by the Secretary.

''(f) MATCHING FUNDS.—In awarding grants under subsection (a), the Secretary may give priority to eligible entities who provide matching contributions. Such non-Federal contributions may be cash or in kind, fairly evaluated, including plant, equipment, or services.

''(g) TECHNICAL ASSISTANCE.—The Secretary may set aside an amount not to exceed 10 percent of the total amount appropriated for a fiscal year under subsection (k) to permit the Director of the Centers for Disease Control and Prevention to provide grantees with technical support in the development, implementation, and evaluation of programs under this section and to disseminate information about effective strategies and interventions in preventing and treating obesity and eating disorders through the promotion of healthy eating behaviors and physical activity.

''(h) LIMITATION ON ADMINISTRATIVE COSTS.—An eligible entity awarded a grant under this section may not use more than 10 percent of funds awarded under such grant for administrative expenses.

''(i) REPORT.—Not later than 6 years after the date of enactment of the Improved Nutrition and Physical Activity Act, the Director of the Centers for Disease Control and Prevention shall review the results of the grants awarded under this section and other related research and identify programs that have demonstrated effectiveness in healthy eating behaviors and physical activity in youth.

''(j) DEFINITIONS.—In this section:

''(1) ANOREXIA NERVOSA.—The term 'Anorexia Nervosa' means an eating disorder characterized by self-starvation and excessive weight loss.

''(2) BINGE EATING DISORDER.—The term 'binge eating disorder' means a disorder characterized by frequent episodes of uncontrolled eating.

''(3) BULIMIA NERVOSA.—The term 'Bulimia Nervosa' means an eating disorder characterized by excessive food consumption, followed by inappropriate compensatory behaviors, such as self-induced vomiting, misuse of laxatives, fasting, or excessive exercise.

''(4) EATING DISORDERS.—The term 'eating disorders' means disorders of eating, including Anorexia Nervosa, Bulimia Nervosa, and binge eating disorder.

''(5) HEALTHY EATING BEHAVIORS.—The term 'healthy eating behaviors' means—

''(A) eating in quantities adequate to meet, but not in excess of, daily energy needs;

''(B) choosing foods to promote health and prevent disease;

''(C) eating comfortably in social environments that promote healthy relationships with family, peers, and community; and

''(D) eating in a manner to acknowledge internal signals of hunger and satiety.

''(6) OBESE.—The term 'obese' means an adult with a Body Mass Index (BMI) of 30 kg/m2 or greater.

''(7) OVERWEIGHT.—The term 'overweight' means an adult with a Body Mass Index (BMI) of 25 to 29.9 kg/m2 and a child or adolescent with a BMI at or above the 95th percentile on the revised Centers for Disease Control and Prevention growth charts or another appropriate childhood definition, as defined by the Secretary.

''(8) YOUTH.—The term 'youth' means individuals not more than 18 years old.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $60,000,000 for fiscal year 2004 and such sums as may be necessary for each of fiscal years 2005 through 2008. Of the funds appropriated pursuant to this subsection, the following amounts shall be set aside for activities related to eating disorders:

''(1) $5,000,000 for fiscal year 2004.

''(2) $5,500,000 for fiscal year 2005.

''(3) $6,000,000 for fiscal year 2006.

''(4) $6,500,000 for fiscal year 2007.

''(5) $1,000,000 for fiscal year 2008.''.

SEC. 202. NATIONAL CENTER FOR HEALTH STATISTICS.

Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended—

(1) in subsection (m)(4)(B), by striking ''subsection (n)'' each place it appears and inserting ''subsection (o)'';

(2) by redesignating subsection (n) as subsection (o); and

(3) by inserting after subsection (m) the following:

''(n)(1) The Secretary, acting through the Center, may provide for the—

''(A) collection of data for determining the fitness levels and energy expenditure of children and youth; and

''(B) analysis of data collected as part of the National Health and Nutrition Examination Survey and other data sources.

''(2) In carrying out paragraph (1), the Secretary, acting through the Center, may make grants to States, public entities, and nonprofit entities.

''(3) The Secretary, acting through the Center, may provide technical assistance, standards, and methodologies to grantees supported by this subsection in order to maximize the data quality and comparability with other studies.''.

SEC. 203. HEALTH DISPARITIES REPORT.

Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Director of the Agency for Healthcare Research and Quality shall review all research

that results from the activities outlined in this Act and determine if particular information may be important to the report on health disparities required by section 903(c)(3) of the Public Health Service Act (42 U.S.C. 299a–1(c)(3)).

SEC. 204. PREVENTIVE HEALTH SERVICES BLOCK GRANT.

Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w–3(a)(1)) is amended by adding at the end the following:

''(H) Activities and community education programs designed to address and prevent overweight, obesity, and eating disorders through effective programs to promote healthy eating, and exercise habits and behaviors.''.

SEC. 205. REPORT ON OBESITY RESEARCH.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on research conducted on causes and health implications of obesity and being overweight.

(b) CONTENT.—The report described in subsection (a) shall contain—

(1) descriptions on the status of relevant, current, ongoing research being conducted in the Department of Health and Human Services including research at the National Institutes of Health, the Centers for Disease Control and Prevention, the Agency for Healthcare Research and Quality, the Health Resources and Services Administration, and other offices and agencies;

(2) information about what these studies have shown regarding the causes of, prevention of, and treatment of, overweight and obesity; and

(3) recommendations on further research that is needed, including research among diverse populations, the department's plan for conducting such research, and how current knowledge can be disseminated.

SEC. 206. REPORT ON A NATIONAL CAMPAIGN TO CHANGE CHILDREN'S HEALTH BEHAVIORS AND REDUCE OBESITY.

Section 399Y of the Public Health Service Act (42 U.S.C. 280h–2) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

''(b) REPORT.—The Secretary shall evaluate the effectiveness of the campaign described in subsection (a) in changing children's behaviors and reducing obesity and shall report such results to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives.''.

Mr. HARKIN. Mr. President, I wish to engage in a colloquy with the distinguished majority leader, the Senator from Tennessee, Mr. FRIST. From time to time, Congress is confronted with a public health crisis of such magnitude that we have no choice but to act. For a number of reasons, including the changing physical environment, eating and physical activity habits, obesity has now emerged as a serious new public health threat. More than 65 percent of American adults and 15 percent of children are obese or overweight. These figures double the levels during the 1980s for adults and triple the levels for children. Obesity now contributes to an estimated 300,000 deaths annually. We also know that obesity contributes to diabetes, high blood pressure, high cholesterol, cancers and heart disease. The economic impact also is alarming. The Surgeon General reports that obesity costs the Nation over $117 billion directly and indirectly. These tends will continue if we do not develop a comprehensive strategy to prevent and treat this condition.

I commend Senator FRIST and others for introducing the Improved Nutrition and Physical Activity Act to begin to tackle this challenge. Senator FRIST as a physician certainly understands the impact of rising obesity rates. I commend his leadership on this issue. I believe that he and I agree that this IMPACT bill is an important step forward, but that more may need to be done to prevent and treat obesity. In view of the continuing and growing public health threat, I wonder if my friend and colleague would agree with me now that the Health, Education, Labor and Pensions Committee, as the committee of jurisdiction in this policy area, should devote further attention to this problem next year. I wonder whether he, as a fellow member of that HELP Committee, would agree with me now to urge chairman and ranking member of that committee to hold a hearing early in the next session of this Congress for that purpose.

Mr. FRIST. I thank my colleague for his kind remarks. As he knows, I believe this issue of obesity is one of the largest unaddressed public health issues we face today, and I am pleased by the action we are taking today. I agree that it is critical that we continue to direct our attention to this issue, and it is my hope that the HELP Committee will continue to examine the issue, including by holding a hearing next year.

Mr. HARKIN. I appreciate the attention of the majority leader to this subject. I commend his work and congratulate him on passage of this bill. I look forward to sending a joint letter to the HELP Committee, requesting a hearing, and I look forward to working with the Senator from Tennessee and others to build on this important start in combating harmful obesity.

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

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1172), as amended, was read the third time and passed.

Mr. FRIST. Mr. President, this bill we just passed does exactly as stated. It establishes grants to address health services for nutrition, for increased physical activity, and for obesity prevention.

It is late in the day, and a little bit later we will bring this session to a close. I am delighted personally, as a physician and as a Senator, that this body came forward to pass this important piece of legislation. I draw the attention of my colleagues to last week's edition of Newsweek magazine. It features a special section on the top 10 health stories of 2003. Weighing in as No. 1 in the Newsweek story in the judgment of its editor is the obesity epidemic in America. That comes before depression, it comes before cancer, and it comes before even the SARS virus.

The magazine reports that more than 65 percent of Americans are overweight or obese and rates of obesity-related illnesses are skyrocketing. Fifteen percent of America's children are seriously overweight, triple the number in 1970. It is an epidemic that is getting worse day by day, week by week, month by month, and year by year.

As a physician and as a Senator, this particular issue is one about which I care passionately. I have spoken to this issue frequently in the Senate and I return tonight to do so for a few moments. I applaud the media outlets because they have done a very good job in highlighting and spotlighting this new epidemic. They are taking this obesity threat seriously and helping to communicate that around the United States of America.

The message is simple, that obesity, which is growing day by day, is debilitating. It is effectively debilitating millions of Americans. Indeed, it has reached epidemic proportions in all ages but in particular in children.

Historically, obesity was considered just another lifestyle choice. It was a tolerable consequence of eating food, eating good food, and eating lots of food. It was a consequence of driving instead of walking. But now we know obesity literally causes heart disease. Heart disease is the No. 1 killer in Americans. Now we know that obesity causes diabetes, causes cancer, contributes to stroke. Indeed, a whopping 300,000 deaths a year can be linked directly to fat. And it is spreading. It is spreading in children. The percentage of kids age 6 to 19 who are overweight has not just doubled, not just tripled but almost quadrupled since the 1960s.

Nationwide, type 2 diabetes, which is the kind associated with being overweight, being obese, has skyrocketed. The Centers for Disease Control and Prevention estimates that one in three Americans born today—they studied the year 2000—will develop diabetes in their lifetime. It is the type of diabetes that can be prevented and it can be treated.

With African-American children and you look at Hispanic children, that number jumps to nearly half; one out of two African American and Hispanic babies born this year or last year will develop diabetes. As adults, we know it is hard to battle being overweight. But imagine, for a 10-year-old child, the challenge to both prevent and to treat this epidemic.

Diabetes leads to a whole host of chronic illnesses. It is the leading cause of amputations in our society today. It is the leading cause of blindness in our society today. It is the

leading cause of heart disease and kidney disease in our society today.

With regard to children, teachers can tell the story. Teachers have the opportunity to see children in classrooms on a regular basis. They say they see kids out of breath simply walking up the stairs in school. They tell us about kids who, when they get outside of the school and go to the schoolyard, are out of breath or, they come back exhausted from a simple field trip.

Activities that we associate with exercise such as kick ball, jumping rope, climbing trees, for many kids today these are grueling exercises, grueling activities that are to be avoided at all cost because of their feeling of overexertion and being out of breath. Twenty-five percent of our Nation's children say they do not participate in any vigorous activity. That is one in four. Obesity is robbing them not only of enjoying the normal traditional childhood pastimes but it also is literally robbing them of their childhood years. By that I mean that obesity is associated with the early onset of puberty among girls. According to a study from the University of North Carolina, 48 percent of African-American girls begin puberty by age 8, over a quarter by age 7.

Indeed, this is a national health crisis. It is harming our children in ways we can readily observe. It is also harming our children in ways we do not so readily observe that will not become apparent until later in life. Yes, you observe the obesity but you do not see the side effects of the obesity until much later. Those side effects, as I mentioned before, are heart disease, amputation, blindness, a debilitating disease that condemns them to more illness, condemns them to a shorter life.

Again, this is a new phenomena. If we look at the history of medicine in this country, back a few hundred years, we are going along like this and in the 1960s or 1970s we have hit epidemic proportions. The reason I talk about it in the Senate and the reason why the bill just passed, the IMPACT Act, is so important is because this trend can be reversed. If we reverse it, we also reverse heart disease, lung disease, stroke, various types of cancer. That is what this body should be about. That is what this body is about and we demonstrated it by passing this so-called IMPACT Act that looks at nutrition, looks at physical activity, that focuses on young people. We are taking action; we are offering solutions. We cannot solve it all with this particular bill, but we show we are addressing identified problems; we are reversing problems that are apparent in our society.

In this session, the Committee on Health, Education, Labor, and Pensions unanimously approved the IMPACT Act, which we just passed in the Senate, the Improved Nutrition and Physical Activity Act. It was introduced earlier this year by myself with Senators BINGAMAN, DODD, and others. This IMPACT Act uses a multifaceted approach that emphasizes youth education to jump-start healthy habits early. It funds demonstration projects to find innovative ways, creative ways, to improve eating and exercise. In addition—and this is critically important—it includes rigorous evaluation so we can learn what is best.

We see many different proposals. We cannot turn on television without seeing the latest fad, the latest diet or the latest cure. It is a huge industry. What we in the Government can do and should be doing is evaluating what works best in terms of what we implement through this program. This bill does not attempt to control what Americans eat or what Americans do not eat. This bill does not outlaw bad foods. It does not attempt to replicate in any way that $1 billion diet and fitness industry. It does have a modest pricetag and that reflects the appropriate role of the Federal Government.

Working with the chairman of the HELP Committee, Senator JUDD GREGG, and Senator DODD, Senator BINGAMAN, and others, I am delighted—I am delighted—that we have, as authors, as sponsors, just seen this bill pass by unanimous consent.

I do hope the House of Representatives will join us early next year in sending this legislation to the President of the United States for his signature.

Again, this is not ''the'' solution. There is no single solution to this growing epidemic of obesity, but there are solutions. This epidemic can be reversed, and the start is awareness and then action. That is why, indeed, I am speaking at this fairly late hour on this particular issue, because we have just demonstrated, through action, that this body will work toward solutions, and to also state the importance of the awareness, especially awareness among children. And that is where this IMPACT bill will have a direct impact.

We know the consequences of obesity. We can and we should keep our kids safe by helping to keep them fit. Tonight, in this body, we demonstrated the start.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO SENATOR PAUL SIMON

Mr. DASCHLE. Mr. President, I think it is fitting that the distinguished Senator from Illinois is in the chair. I know Senator FRIST either has or intends to say something about the tragic news we just received this afternoon.

I had the privilege, the honor, of working with Paul Simon for 12 years. He brought a decency, a sense of humor, to his life and to his work that I think has never been matched. True to his roots as an investigative journalist, he had a clear eye for injustice and an untiring devotion to using power to improve the lives of Americans.

At the same time, he recognized that in order to maintain citizens' support for Government, we needed to preserve their faith in the political process.

Paul Simon was among the more vocal and effective advocates of campaign finance reform, and his leadership helped clear the way for the McCain-Feingold bill, passed 5 years after his departure.

Even after his retirement, Paul Simon remained committed to raising citizens' understanding of and faith in Government and politics through his writings and his work to begin Southern Illinois University's Public Policy Institute.

Anyone who knew or worked with Paul will miss his probing intellect, his self-deprecating wit, his integrity, and his leadership. I will never forget one of the last days that Senator Simon served, all of us surprised him during a vote by coming to the floor wearing bow ties. I will never forget the look on his face. We tried to replicate Paul Simon's look, but we could never replicate his soul, his character, his personality, his drive, his intellect, his prodigious writing as the author of, I know, more than a dozen books.

Paul Simon was a friend. Paul Simon was a giant on whom we depended for the guidance, the leadership, and the courage that this Senate has come to expect of people as capable as he was when he served. We will miss him dearly.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FRIST. Mr. President, I rise to pay tribute and respect to Senator Paul Simon who, as we know, died earlier today following surgery at the age of 75. On behalf of the Senate, I do extend my deepest condolences to the Simon family. He was a wonderful man, a wonderful Senator, always thoughtful, always plain spoken, and a man of impeccable integrity.

Among his many accomplishments, Senator Simon was the chief Democratic sponsor of the balanced budget amendment. In 1990, his margin of victory over the challenger was the highest of any contested candidate in the Nation for Senator or Governor.

He authored 15 books. He received 39 honorary degrees. It was just a few

weeks ago that he came by my office, as he went by many Senators' offices, not stopping, not resting at all, but arguing for, making the case for a wonderfully innovative program that helps expand and express the understanding of Americans, of college students, of people just out of college for events around the world, to give people the opportunity to serve overseas for a period of time and then to come back and share that knowledge and experience.

The fact that he came by the office—and it seems like yesterday; it was several weeks ago now—and he had his flip charts. One by one, in that sort of scholarly, serious, academic way, expressing the truth, what he knew would work in a creative and innovative way impressed me. Indeed, it should be the goal of all of us, once we leave this body, to continue the process, participating as actively as he demonstrated several weeks ago.

He was a champion of the people and, indeed, a credit to the United States of America. To his family, to his friends, to his loved ones, our condolences go out to them over the coming days.

THE FIRST ANNUAL CONGRESSIONAL CONFERENCE ON CIVIC EDUCATION

Mr. DASCHLE. There is a great, possibly prophetic, story from the end of the Constitutional Convention in 1789. For weeks, delegates to the convention had labored in the Philadelphia heat to draft a Constitution. Every day, crowds waited outside Independence Hall for any news of their progress. Finally, a draft was agreed upon. As Benjamin Franklin emerged from the hall, a woman asked, ''Dr Franklin, what have you given us: A monarchy? Or a republic?'' Franklin famously replied, ''A republic—if you can keep it.''

Some of our founders would, no doubt, be surprised that we have indeed managed to keep this republic they dared to imagine and create more than 200 years ago.

What has enabled the United States to become the world's oldest surviving democracy is more than luck. It is more, even, than divine providence. It is also the result of deliberate work and effort by generations of Americans to understand and protect the principles on which our nation was founded, and to pass those lessons on, undiminished, to future generations.

That is the heart of what we mean by ''civic education.''

I know the majority leader shares my belief that Congress has an important role to play in ensuring that civic education in America remains strong and vital and that it reaches all Americans. For that reason, it was an honor for both of us, along with many of our colleagues, to attend the First Annual Congressional Conference on Civic Education from September 20th to the 22nd of this year, in Washington, D.C.

The conference brought together education and civic leaders and others from all 50 States and the District of Columbia and gave them an opportunity to compare notes about what is happening in their States to strengthen civic education. Each State team also adopted a State action plan, which they will implement before the Second Annual Conference, which will be held in December 2004, also in Washington. I have the South Dakota State action plan, which I ask unanimous consent to have printed in the RECORD.

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

CIVIC EDUCATION PLAN FOR THE STATE OF SOUTH DAKOTA

Members of the South Dakota delegation, who attended the First Annual Conference On Civic Education in Washington D.C. in September 2003, have devised a plan for analyzing and improving civic education in the state. The South Dakota delegation comprised of Glenna Fouberg. President of the South Dakota State Board of Education, Representative Gerry Lange, Jack Lyons, Chair of the South Dakota Humanities Council, Bob Sutton, Executive Director of the South Dakota Community Foundation, and Senator Drue Vitter have planned a conference entitled ''Dialogue On Civic Education in South Dakota.'' This event will take place in the capital building in Pierre on November 10, 2003.

A variety of state educators and state administrators have been invited to attend the conference that will focus on a historic overview of civic education, the current status of civic education, state certification requirements and teacher preparation, and successful programs. Members of the S.D. delegation will act as panelists for the event. Plenty of time will be allowed for observations and questions from those attending the conference.

The S.D. delegation has tentative plans for a follow-up conference to be held in the state in either the spring or summer. This event probably would be held in the Eastern part of the state.

The South Dakota delegation hopes to convey to its conference attendees the enthusiasm that they encountered at the Washington conference for improving and revitalizing civic education in the nation and the state.

Mr. FRIST. I was very pleased to join the distinguished Senator from South Dakota, Senator DASCHLE, and our leadership colleagues in the House of Representatives in hosting Congress's first Civic Education conference.

On behalf of the entire Senate, I want to recognize and thank the cosponsors of the first conference, the Alliance for Democracy and its members: the Center for Civic Education, the Center on the Congress at Indiana University and the National Conference of State Legislatures.

It is my understanding that there will be a total of five Congressional Conferences on Civic Education. These conferences will enable us to give civic education and civic participation the sustained, national attention they deserve but have not always gotten.

It is our hope to explore, at these annual conferences, the critical role civic education plays in promoting civic participation—which is really the lifeblood of any democracy.

We also want to find new and better ways to work with schools and with education leaders to create first-rate citizenship education programs in our nation's schools. I know this is an interest that the Senator from South Dakota shares.

I think this first conference provided an excellent start on that goal. I ask unanimous consent to have the State action plan for my State of Tennessee printed in the RECORD.

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

CIVIC EDUCATION PLAN FOR THE STATE OF TENNESSEE

''Civic education should be a central purpose of education essential to the well-being of representative democracy.''

''Civic education should be seen as a core subject. Well-defined state standards and curricular requirements are necessary to ensure civic education is taught effectively at each grade level.''

''Policies that support 'Quality teacher education and professional development' are important to insure effective classroom instruction and raise student achievement.''

''Classroom programs that foster an understanding of fundamental constitutional principles through . . . service learning, discussion of current events, or simulations . . . are essential to civic education.''

Mr. FRIST. With these four principles in mind, the Tennessee delegation has made the following Tennessee State Action Plan:

Reconvene in Tennessee to discuss further plans, an early December meeting is planned to include the entire delegation.

A follow-up meeting will include each delegate bringing ''to the table'' persons of influence that will help deliver our mission reviving ''Civics in the Classroom.''

Janis Kyser and Rep. Joe Towns will attend a Youth For Justice meeting to help with organizing a 501c3 organization to serve as a statewide clearing house for LRE services; Conduct an intensive state-wide LRE survey to determine what is happening, what needs to happen and where are the gaps in service; Plan and conduct a Statewide LRE conference.

Tennessee Delegation: Ms. Janis Kyser, State Facilitator; Senator Randy McNally, Tennessee State Senate; Representative Beth Harwell, Tennessee House of Representatives; Representative Joe Towns, Jr., Tennessee House of Representatives; Mr. Richard Ray, Chairman State School Board; Mr. Bruce Opie, Legislative Liaison, Tennessee Department of Education; Dr. Ashley Smith Jr., President Tennessee Middle School Association.

Mr. DASCHLE. I share the Majority Leader's belief that schools are critical in this effort. We must do a better job of educating our children to be the productive and involved citizens that our democracy, our country, needs.

Mr. FRIST. The Senator from South Dakota is correct. There are other important partners as well.

Democracy isn't something that just happens to us. It's something each of us must actively create. Citizenship gives us rights, but it also gives us responsibilities. Each of us has a responsibility to understand the great principles on which our great country was

founded. Each of us has a responsibility to participate in the process of self-government.

It is an essential balance: rights and responsibilities. When we neglect either side of that equation, our democracy is in trouble.

Mr. DASCHLE. I agree with the Senator from Tennessee. It's not enough for the principles of our democracy to be known by only a few. That's not American democracy. In order to have a strong, vibrant democracy, everyone has to participate. Everyone has to know the history and the rules. We all need to learn not just names and dates, but the process of democracy. We also need to develop new and better ways to keep adults informed and involved in the civic life of their communities and of our nation.

Our nation faces grave, new challenges today. The very real threat of terrorism is forcing us to examine the balance between liberty and security. How do ''we the people'' respond to terrorism? How do ''we the people'' operate in an increasingly global world? In a world in which we are inundated with information of all kinds, how do we assure that people get the information they need to make informed decisions about our democracy and our future? These are the kinds of questions that future Congressional Conferences on Civic Education can explore.

Mr. FRIST. My friend is correct. The challenges and questions our nation faces today are different than those faced by our founders. But they are, in many ways, just as profound.

The great principles of democracy are what unify us as a people and bind us together as a nation. They are what gives us the strength to face the challenges of a complex world as one people. And, as my friend noted, they are what has made it possible for us to preserve the miracle of Philadelphia and keep our republic for more than two centuries.

I look forward to working with the distinguished democratic leader and with our colleagues in the House leadership to prepare for next year's conference. I also look forward to working with my fellow Tennesseans to see that our State produces an outstanding State action plan before that conference.

Mr. DASCHLE. I ask unanimous consent to have printed in the RECORD the Conference Statement and join the majority leader in encouraging all of our colleagues to lend their support to this Congressionally-sponsored effort to dramatically improve civic education and civic participation in America.

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

CONFERENCE STATEMENT—FIRST ANNUAL CONGRESSIONAL CONFERENCE ON CIVIC EDUCATION

The participants at the First Annual Congressional Conference on Civic Education acknowledge that there is an urgent need to address the low level of civic engagement in America. We recognize that:

Civic knowledge and engagement are essential to maintaining our representative democracy. While many institutions help to develop Americans' civic knowledge, skills, and dispositions, schools must have the capacity to prepare students for engaged citizenship. Civic education should be a central purpose of education essential to the well-being of representative democracy.

Civic education should be seen as a core subject. Well-defined state standards and curricular requirements are necessary to ensure that civic education is taught effectively at each grade level from kindergarten through 12th grade. Strengthening the civic mission of schools must be a shared responsibility of the public and private sectors at the community, local, state, and national levels.

Policies that support quality teacher education and professional development are important to ensure effective classroom instruction and raise student achievement.

Well-designed classroom programs that foster an understanding of fundamental constitutional principles through methods such as service learning, discussion of current events, or simulations of democratic processes and procedures are essential to civic education.

In recognition of these findings, we resolve to take action to reaffirm the historic civic mission of our schools.

Adopted by the Delegates to the First Congressional Conference on Civic Education, September 22, 2003, in Washington, D.C.

LOCAL LAW ENFORCEMENT ACT OF 2003

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

On November 11, 2003, a religious fundamentalist was arrested as a suspect in an alleged plot to bomb abortion clinics and gay bars throughout the eastern United States. On the day of his arrest, the suspect had purchased gasoline cans, flares, propane tanks and starter fluids, in addition to pistols and silencers. Thankfully, the suspect was arrested before he was able to commit multiple crimes of hate.

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

Mr. DODD. Mr. President, I rise today to briefly discuss legislation to reform the rules governing class litigation. In October of this year, the majority leader sought to proceed to the Class Action Fairness Act, S. 1751.

I joined forty of my colleagues in opposing the motion to proceed. I said at the time that while I supported some reform of class action procedures, I could not support S. 1751 in its current form. I also expressed concern about whether there would be any meaningful opportunity for interested Senators to negotiate changes to the bill in a bipartisan fashion.

Subsequent to the vote in October, I joined with three of my colleagues in sending a letter to the majority leader on November 14, 2003. In that letter, we reiterated our interest in class action reform and we outlined several areas where we believed revisions to S. 1751 were in order.

In November, Senators LANDRIEU, SCHUMER and I entered into discussions with Senators FRIST, HATCH, GRASSLEY, KOHL, and CARPER. Those discussions have resulted in a compromise agreed to by our eight offices that I believe significantly improves upon S. 1751. I also ask unanimous consent that a summary of the compromise produced by my office be printed in the RECORD.

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

(See exhibit 1.)

Mr. DODD. Lastly, Mr. President, I want to point out that in my view this is a delicate compromise, which addresses the shortcomings of current class action practice while at the same time protecting the right of citizens to join with fellow citizens to seek the redress of grievances in the courts of our Nation. As I and my colleagues said in our letter of November 14th, it is ''critical'' that this agreement ''be honored as the bill moves forward—both in and beyond the Senate.''

EXHIBIT 1

SUMMARY OF CHANGES TO S. 1751 AS AGREED TO BY SENATORS FRIST, GRASSLEY, HATCH, KOHL, CARPER, DODD, LANDRIEU, AND SCHUMER

The Compromise Improves Coupon Settlement Procedures

S. 1751 would have continued to allow coupon settlements even though only a small percentage of coupons are actually redeemed by class members in many cases.

The compromise proposal requires that attorneys fees be based either on (a) the proportionate value of coupons actually redeemed by class members or (b) the hours actually billed in prosecuting the class action. The compromise proposal also adds a provision permitting federal courts to require that settlement agreements provide for charitable distribution of unclaimed coupon values.

The Compromise Eliminates the So-Called Bounty Prohibition in S. 1751

S. 1751 would have prevented civil rights and consumer plaintiffs from being compensated for the particular hardships they endure as a result of initiating and pursuing litigation.

The compromise deletes the so-called ''bounty provision'' in S. 1751, thereby allowing plaintiffs to receive special relief for enduring special hardships as class members.

The Compromise Eliminates the potential for Notification Burden and Confusion

S. 1751 would have created a complicated set of unnecessarily burdensome notice requirements for notice to potential class members. The compromise eliminates this unnecessary burden and preserves current federal law related to class notification.

The Compromise Provides for Greater Judicial Discretion

S. 1751 included several factors to be considered by district courts in deciding whether to exercise jurisdiction over class action

in which between one-third and two-thirds of the proposed class members and all primary defendants are citizens of the same state.

The compromise provides for broader discretion by authorizing federal courts to consider any ''distinct'' nexus between (a) the forum where the action was brought and (b) the class members, the alleged harm, or the defendants. The proposal also limits a court's authority to base federal jurisdiction on the existence of similar class actions filed in other states by disallowing consideration of other cases that are more than three years old.

The Compromise Expands the Local Class Action Exception

S. 1751 established an exception to prevent removal of a class action to federal court when 2/3 of the plaintiffs are from the state where the action was brought and the ''primary defendants'' are also from that state (the Feinstein formula). The compromise retains the Feinstein formula and creates a second exception that allows cases to remain in state court if: (1) more than 2/3 of class members are citizens of the forum state; (2) there is at least one in-state defendant from whom significant relief is sought and who contributed significantly to the alleged harm; (3) the principal injuries happened within the state where the action was filed; and (4) no other class action asserting the same or similar factual allegations against any of the defendants on behalf of the same or other persons has been filed during the preceding three years.

The Compromise Creates a Bright Line for Determining Class Composition

S. 1751 was silent on when class composition could be measured and arguably would have allowed class composition to be challenged at any time during the life of the case. The compromise clarifies that citizenship of proposed class members is to be determined on the date plaintiffs filed the original complaint, or if there is no federal jurisdiction over the first complaint, when plaintiffs serve an amended complaint or other paper indicating the existence of federal jurisdiction.

The Compromise Eliminates the ''Merry-Go-Round'' Problem

S. 1751 would have required federal courts to dismiss class actions if the court determined that the case did not meet Rule 23 requirements. The compromise eliminates the dismissal requirement, giving federal courts discretion to handle Rule 23-ineligible cases appropriately. Potentially meritorious suits will thus not be automatically dismissed simply because they fail to comply with the class certification requirements of Rule 23.

The Compromise Improve Treatment of Mass Actions

S. 1751 would have treated all mass actions involving over 100 claimants as if they were class actions. The compromise makes several changes to treat mass actions more like individual cases than like class actions when appropriate.

The compromise changes the jurisdictional amount requirement. Federal jurisdiction shall only exist over those persons whose claims satisfy the normal diversity jurisdictional amount requirement for individual actions under current law (presently $75,000).

The compromise expands the ''single sudden accident'' exception so that federal jurisdiction shall not exist over mass actions in which all claims arise from any ''event or occurrence'' that happened in the state where the action was filed and that allegedly resulted in injuries in that state or in a contiguous state. The proposal also added a provision clarifying that there is no federal jurisdiction under the mass action provision for claims that have been consolidated solely for pretrial purposes.

The Compromise Eliminates the Potential for Abusive Plaintiff Class Removals

S. 1751 would have changed current law by allowing any plaintiff class member to remove a case to federal court even if all other class members wanted the case to remain in state court. The compromise retains current law—allowing individual plaintiffs to opt out of class actions, but not allowing them to force entire classes into federal court.

The Compromise Eliminates the Potential for Abusive Appeals of Remand Orders

S. 1751 would have allowed defendants to seek unlimited appellate review of federal court orders remanding cases to state courts. If a defendant requested an appeal, the federal courts would have been required to hear the appeal and the appeals could have taken months or even years to complete.

The compromise makes two improvements: (1) grants the federal courts discretion to refuse to hear an appeal if the appeal is not in the interest of justice; (2) Establishes tight deadlines for completion of any appeals so that no case can be delayed more than 77 days, unless all parties agree to a longer period.

The Compromise Preserves the Rulemaking Authority of Supreme Court and Judicial Conference

The compromise clarifies that nothing in the bill restricts the authority of the Judicial Conference and Supreme Court to implement new rules relating to class actions.

The Compromise is Not Retroactive

Unlike the House Bill, the compromise will not retroactively change the rules governing jurisdiction over class actions.

HONORING OUR ARMED FORCES

TRIBUTE TO SPECIALIST AARON J. SISSEL

Mr. GRASSLEY. Mr. President, I rise today to pay tribute to a fellow Iowan and a great patriot, Iowa National Guard Specialist Aaron J. ''George'' Sissel. Specialist Sissel gave his life in service to his country on November 29, 2003 in support of Operation Iraqi Freedom when the convoy in which he was traveling came under enemy fire. This brave young man was only 22 years old at the time of his death.

I ask my colleagues in the Senate, my fellow Iowans, and all Americans to join me today in paying tribute to Specialist Sissel for his dedication to the cause of freedom and for his sacrifice in defense of the liberties we all so dearly prize. He selflessly served his Nation, sacrificing his life for the great principles that underpin both our way of life and the hopes and dreams of all humankind—the principles of liberty, justice, and equality. In a statement released following his death, Specialist Sissel's family offered the following words about their son and brother: ''Aaron 'George' died doing what he loved and believed in. We are very proud of him.''

We can all be very proud of men like Specialist Sissel. Our Nation's history is distinguished by the presence of extraordinary men and women willing to risk their lives in defense of our country, but also by families who sacrifice those they love for the sake of the great principles of American life. While we share the pride felt by Specialist Sissel's family, we also share their grief. My deepest sympathy goes out to the members of Specialist Sissel's family, to his friends, and to all those who have been touched by his untimely passing. May his mother, Jo, his father and stepmother, Kirk and Cindy, his sister, Shanna, and his fiancee, Kari Prellwitz, be comforted with the knowledge that they are in the thoughts and prayers of many Americans, and that they have the eternal gratitude of an entire nation.

Specialist Sissel did not die in vain; rather, he died in defense of the Nation he loved and the principles in which he believed. Indeed, Specialist Aaron J. ''George'' Sissel has entered the ranks of our Nation's greatest patriots, and his courage, his dedication, and his sacrifice are all testaments to his status as a true American hero.

SP4 DAVID J. GOLDBERG, U.S. ARMY

Mr. HATCH. Mr. President, my heart is heavy. Utah has once again given one of her sons to the cause of liberty.

Any loss of our fine young men or women is a tragedy. However, I believe this is particularly so with the loss of SP4 David J. Goldberg. He was a fine young man, loved dearly by his parents and wife. Though of a young age, he had already accepted the responsibilities of a man and had volunteered to serve his Nation during a time of war. This sense of responsibility, especially to his fellow soldiers, was one of the defining characteristics of his life. I have learned from the many who knew him and loved him that the specialist was always there for his fellow soldiers, frequently volunteering for extra assignments when others were not available. He will be greatly missed.

And so, another name has been added to Utah's List of Honor: SP4 David J. Goldberg. He joins an illustrious list that includes CPT Nathan S. Dalley, West Point graduate and a member of the Army's 1st Armored Division, SSG James W. Cawley, U.S. Marine Corps Reserve; SSG Nino D. Livaudais of the Army's Ranger Regiment; Randall S. Rehn, of the Army's 3rd Infantry Division; SGT Mason D. Whetstone of the U.S. Army and former Special Forces soldier Brett Thorpe.

Their names and the service they performed is something that I shall never forget. I shall always honor them and their families.

CPT NATHAN S. DALLEY, U.S. ARMY

Mr. President, on November 17, God called home one of our best and brightest, CPT Nathan S. Dalley. At the young age of 27, Captain Dalley entered the hallowed list of those sons and daughters of Utah who have given their lives for their country.

Captain Dalley epitomized what a soldier should be: a born leader, mindful of his responsibilities, and eager to help and encourage others. He was exceptional in many ways, yet a decent man that treated everyone with respect. You see, I had the honor of

knowing Captain Dalley. I was proud to nominate him to the United States Naval Academy; however, he decided to pursue his career in public service with the Army and attended West Point. It should also be noted that he was also accepted to the Air Force Academy; remarkable achievements by any standard.

While preparing these remarks, I went through my files and found these words from this young man's Advanced Placement History teacher, who wrote a nomination recommendation:

As impressive as [Nathan Dalley's] academic qualities are, I find his personal qualities to be even more impressive . . . His kindness and friendliness to everyone set him apart in the classroom, and in the larger school setting. In my class he was a remarkably effective cooperative learner and peer tutor. Nate understands that his contributions to the community as a whole are as important as his personal academic success, and I have every confidence that he will be successful in his future pursuits.

Captain Dalley not only met these high expectations, but exceeded them.

To his mother, his sisters and his fiancee, I would like to say that, although I have no words to minimize your grief, I hope there is some comfort in knowing that all who knew your son respected him and knew him to be a good friend.

I will never forget Nathan Dalley or the others from Utah's list of honor. Their sacrifice will make a difference, their will be freedom in Iraq, and those who would destroy liberty will be brought to justice. So today we add CPT Nathan S. Dalley to this illustrious list that includes SSG James W. Cawley, United States Marine Corps Reserve; SSG Nino D. Livaudais of the Army's Ranger Regiment; Randall S. Rehn, of the Army's 3rd Infantry Division; SGT Mason D. Whetstone of the United States Army; SP4 David J. Goldberg of the Utah-based 395th Finance Battalion, Army Reserve and former Special Forces soldier Brett Thorpe.

We will honor them always and stand fast behind their families.

PATENT CHALLENGE PROVISIONS OF THE MEDICARE REFORM BILL

Mr. HATCH. Mr. President, I rise to make a few comments about the historic Medicare legislation that President Bush signed into law yesterday.

I will center my remarks today on the provisions of the bill that amend the Drug Price Competition and Patent Term Restoration Act of 1984. I am a coauthor of the 1984 law and it is of particular interest to me. This law, often referred to as the Waxman-Hatch Act or Hatch Waxman, is of great importance to my fellow Utahns and the rest of the American public as it saves an estimated $8 to $10 billion for consumers each year.

Over the past 2 years, the Senate has spent considerable time and effort debating refinements to the 1984 law designed to close some loopholes that emerged and were exploited. While I would have preferred a more comprehensive reexamination of the statute with the goal of assessing how the law might be changed to facilitate new biomedical research and how best to disseminate the fruits of this research to the public in a quick and fair fashion, the amendments made to Hatch-Waxman made under the leadership of Senators GREGG, SCHUMER, MCCAIN, KENNEDY, COLLINS, and EDWARDS are very significant.

It has been my position for some time that once the Congress adopts and the President signs, as he did yesterday, Medicare reform legislation that includes a prescription drug benefit, pressure will grow on Congress and the Food and Drug Administration to find new ways to bring new biotechnology products to the public when the patents expire. The Center for Medicare and Medicaid Services will be compelled to look for ways to economize on the purchase of drugs and it seems likely to me that the Department of Health and Human Services will have to explore regulatory measures that can produce saving. The Commissioner of Food and Drugs, Dr. Mark McClellan, has indicated a willingness to examine this issue. Few, if any, of my colleagues in Congress have to date joined in the discussion surrounding whether and, if so, how to create a fast track approval system for biologic products, but I believe the bill signed into law yesterday will encourage this debate. I welcome this debate and recognize that very important public health matters are at its heart. As well, retaining America's worldwide leadership in biomedical research is at stake whenever we consider legislation that affects pharmaceutical related intellectual property.

We must proceed carefully but we must proceed. Critical to the success of this debate is a need to observe the principle of balance contained in the original 1984 law so that both research based firms and generic firms receive new incentives that will allow them to continue to produce and distribute the products that the American public deserves.

As more and more biological products come to the market, the pressures on the Federal Government, State governments, private insurers, and private citizens to pay for these products will result in considerable pressure to create a fast track FDA approval system for off-patent biological products. Such a mechanism was not discussed in the 1984 negotiations that resulted in Hatch-Waxman largely because the biotechnology was still in its infancy. This is not the case today. Few, if any, of my colleagues in Congress have to date joined the discussion surrounding creating a fast track approval for off-patent follow-on biologic products, but I believe the new law signed yesterday will encourage this debate.

As part of an appraisal of the laws relating to the development and approval of pharmaceutical products, I would also hope that my colleagues and the public will examine the full complement of incentives that Senator LIEBERMAN and I have included in our bi-partisan bioterrorism bill, S. 666. These incentives, which include day-to-day patent term restoration and a harmonization of the marketing exclusivity period to the 10-year term employed by the EU and Japan, will be helpful for the development of countermeasures to bioterrorist attacks and they should also be carefully considered with respect to developing new vaccines, diagnostics, and preventive and therapeutic agents for a host of other diseases and conditions.

With respect to the patent challenge provisions of the Medicare bill, I want especially to commend the efforts of Senator GREGG, Chairman of the HELP Committee and the Majority Leader, Senator FRIST, for working so hard to improve this legislation. There can be no doubt that the bill the President signed yesterday is a big improvement compared with the McCain-Schumer bill of last year, S. 812, that passed the Senate.

I must also commend my colleagues in the House including, Commerce Committee Chairman BILLY TAUZIN, Commerce Committee Ranking Democrat JOHN DINGELL, and my colleagues from the House Judiciary Committee, Chairman JIM SENSENBRENNER and Ranking Democrat JOHN CONYERS, and Intellectual Property Subcommittee Chairman LAMAR SMITH for their help in vastly improving the Gregg-Schumer-Kennedy amendments that passed the Senate by a 94–1 vote this summer.

As the sole dissenter in the Senate, I am pleased the conferees were able to work in a bipartisan, bicameral spirit to correct the constitutional flaw in the Senate-passed bill. I commend the Department of Justice for its work that helped dislodge the unconstitutional ''actual controversy'' language from the declaratory judgment provision of the bill.

I am also pleased that the conferees decided to reject the provision of the Senate bill that would have resulted in the so-called parking of exclusivity in cases in which a generic challenger could show that the patents held by a pioneer drug firm were not infringed or were invalid. In order to give an incentive for vigorous patent challenges, the 1984 law granted a 180-day head start over other generic drug firms when the pioneer firm's patents failed or were simply not infringed. As I will explain in some detail, I think there may be a way to improve this language further and to save consumers a considerable sum of money in the process.

The 180-day marketing exclusivity rules were first enacted as part of the Waxman-Hatch Act. The policy behind these provisions is to benefit the public by creating an atmosphere that ensure vigorous challenges of the patents held by innovator drug firms.

The intent of this section of the 1984 law was to award the 180-day head start

to the first successful challenger of a pioneer firm's patents. Unfortunately, we drafters of the statute employed language that has been interpreted by the courts to grant the 180-days of exclusivity to the first generic drug applicant to file an application with the FDA that challenges the patents.

I must say that in most cases the first filer and first successful applicant was the same applicant. But I believe that the line of court decisions that include the Mova and Granutec cases has resulted in the establishment of a first filer regime that is not without unintended consequences and perverse incentives. The mismatch between the rights accorded to the first applicants and first successful challenger contributed to an atmosphere in which anticompetitive agreements were entered into between certain pioneer and generic drug firms.

I am pleased that the Medicare reform bill signed into law yesterday contained Senator LEAHY's Drug Competition Act, which is designed to increase enforcement of longstanding provisions of antitrust law that prevent anti-consumer agreements. The 2002 FTC study, ''Generic Drug Entry Prior to Patent Expiration,'' catalogs the agency's actions in this arena including such cases as those involving Hoescht and Andryx and Abbott and Geneva.

I am also pleased that the Senate language prevailed on Senator LEAHY's Drug Competition Act so that potentially anticompetitive agreements between research-based and generic drug firms will be reported to both the Department of Justice and the Federal Trade Commission. I worked extensively with Senator LEAHY on his bill in the 107th Congress and took the lead, with his cosponsor, Senator GRASSLEY, in convincing the House conferees of the wisdom of the Senate's dual reporting requirement.

So, the conferees made a number of important improvements to provisions of the legislation affecting challenges to drug patents. At our August 1, 2003, Judiciary Committee hearing, both the FDA and FTC expressed reservations about some elements of the Senate bill's rules pertaining to the 180-day marketing provision. The Administration, correctly in my view, took exception to the provisions in the Senate bill that would have allowed a sue now/use the exclusivity later—and perhaps years later at that—policy on marketing exclusivity.

At the August 1st hearing, Mr. Robert Armitage, General Counsel of the Eli Lilly Company, presented compelling testimony on the matter of ''parking'' or delaying, the use of the 180-day exclusivity until the basic patents expire. The question confronting policymakers centered on the wisdom of retaining the Gregg-Schumer-Kennedy provision that would have encouraged very early lawsuits by those with, for examples, noninfringing formulations of the pioneer product, in order to gain the potentially very lucrative 180-days of exclusivity down the road.

I welcome and expect that day will come when Congress will reexamine the whole rationale and operation of the 180-day marketing exclusivity provisions. The day will come when the Congress will be forced to confront the incongruity in the statute, pointed out by my friend and skilled patent-challenging lawyer and philanthropist, Al Engelberg, is awarding 180 days both for a successful invalidity challenge and an non-infringement action. The former, a finding of invalidity, accrues to all generic firms while the latter benefits only the specific non-infringer. This is a distinction with a difference in a sector of the economy where a whole cottage industry has grown up fueled in large part by non-infringement suits to non-basic patents. It is less than clear that the public benefits as much as it can or should under the present system which is left largely in place by the new bill language. This issues deserves further discussion.

Nevertheless, I am pleased that the Senate language that allowed long-term parking of exclusivity was modified in an important way by the conferees. I want to commend the FDA and especially the Chief Counsel for Food and Drugs, Mr. Dan Troy, and the soon-to-be betrothed Associate Commissioner for Legislative Affairs, Mr. Amit Sachdev, for their contributions in this area.

Having now commended the administration for helping to improve materially the Senate version of the 180-day provisions, I must also unfortunately report to my colleagues in the Senate and to the American public that we have not accomplished as much as possible with respect to the 180-day provisions.

First off, I continue to believe that it is both unfair and ill-advised to retain the bill language that does not reward a non-first-filer to gain the 180-days marketing exclusivity in the case, which will admittedly be rare, in which the subsequent filer prevails on a patent invalidity challenge. I am told that conferee staff first thought that the provision as drafted, and now signed into law, would result in a subsequent filer's successful invalidity challenge forfeiting the first filer's 180 days of marketing exclusivity. Although the successful challenger does not get the 180-day head start, at least under this reading, the subsequent successful challenger is not penalized with respect to market entry. Upon further scrutiny of the statutory language, it is my understanding that in such circumstances the language may actually work to grant the 180-days of marketing exclusivity to the first filer, so that the successful subsequent challenger not only does not get the 180-day benefit, but actually receives a 180-day penalty for invalidating the patent.

If this is the correct way to read the statute, the law should be changed.

I am told that the staff of any conferee nor the FDA strongly defended this policy. Unfortunately, nor was there agreement to change the language to at least clarify that the subsequent challenger's success was at least a forfeiture event or, preferable from my perspective, would result in the granting of the 180-days to the successful challenger in a patent invalidity challenge rather than benefitting the fastest paper shuffler.

This is bad policy.

Finally, I must unfortunately report to my colleagues that the new statute retains the Gregg-Schumer-Kennedy provision that may cost the Federal government, according to the CONGRESSIONAL BUDGET OFFICE, $700 million over the next 10 years. Moreover, it is my understanding that the total cost of this provision to consumers over the next 10 years could exceed $3 billion.

At issue are the sections of the bill that essentially give the first filer an exclusive right to the potential 180-day marketing exclusivity until its case is decided at the appellate court level. The question arises of what happens if a subsequent filer is not sued by the pioneer firm and is ready, willing and able to go to market but for waiting for the disposition of the first filer's challenge in the appellate court? If the first filer prevails in the appellate court, it will receive the 180-days of exclusive marketing even though one or more subsequent filers were ready, willing, and able to go to the market long before the first filer's challenge was resolved.

I would also note the FTC study documents that when the first filer wins in the district court, they almost always prevail on appeal. The FTC opposed reinstating the earlier policy of the appellate court trigger because it believes that, on average, consumers will lose out while generic firms get an extra measure of certainty.

In any event, subsequent to the Judiciary Committee hearing in August and throughout the fall as the conference committee met, I was involved in participating and facilitating discussions designed to craft language to close this new loophole sanctioned by the Gregg-Schumer-Kennedy language as well as to make a few other clarifications to the parking language. Specifically, I preferred statutory language that would automatically convert unsuccessful Paragraph IV invalidity/noninfringement challenges to standard Paragraph III—''the patents expire on''—applications. FDA believes it can accomplish this by rule or guideline, but the courts have not been kind to FDA rulemaking with respect to Hatch-Waxman in recent years.

While I am mindful that the forces behind the first filer system of challenge have won the day in this legislation, I think in the circumstance when the subsequent challenger has not been sued, and may have even been issued a covenant not to be sued by the pioneer firm, that the first filer should at least forfeit its 180 days if it is not prepared to go to market in the 75-day grace period the new provision creates. This is

good for the consumer and sound policy since the rationale behind the 180-day provision is to create an incentive for challenges to the pioneer's patents, not to create an entitlement to the first applicant to file a patent challenge with the FDA in the Parklawn Building. It seems to me that the first time that a blockbuster product is kept off the market, perhaps for over a year, due to the application of this new law and there is a second generic ready, able and willing to go to market, there will be a great public clamor, as there should be.

At one point, I thought I was close to agreeing to language with Senator KENNEDY and others to close this new loophole. Unfortunately, we did not reach agreement and since this was a part of the legislation in which the Senate and House language was virtually identical, it is understandable the conferees concentrated their efforts on those many provisions in which there were substantial differences. On the very last days before the conference report was completed, Senator SCHUMER and I also came close to closing this newly created loophole, but time ran out on this effort.

Let me just say I am mindful that the politics and financial interests with respect to this issue among those in both the research-based firms and generic drug companies are a very sensitive matter. I also recognize it will be exceedingly difficult to reopen these provisions now that the President has signed the bill into law. Nevertheless, I think we got this aspect wrong and we should try to fix it. I pledge to continue to work with Senator GREGG, MCCAIN, SCHUMER, KENNEDY as well as Representatives TAUZIN, DINGELL, SENSENBRENNER, SMITH, and CONYERS and other interested members of Congress and other affected parties to fix this problem before consumers have to pay for this ill-advised policy.

In the interest of moving this issue along in a constructive fashion, I have developed a discussion draft that emerged out of my discussions with Senator KENNEDY and others that addresses these issues. Frankly, much of this draft reflects refinements to a draft that Senator KENNEDY prepared in part as a response to a draft prepared largely by several private sector parties earlier this year that I submitted to the Medicare conferees for their consideration. It is my understanding that the administration does not oppose this language but, unfortunately, neither did it support this approach due, in some measure, to the fact that it was not anxious to open new issues in the already complex Medicare conference.

Although they both opposed the underlying Medicare reform bill, I commend my colleagues, Senators KENNEDY and SCHUMER for their interest in improving this particular aspect of the legislation.

In closing, let me say again that Senators GREGG, KENNEDY, SCHUMER, MCCAIN, and FRIST have worked hard to improve the patent challenge provisions of current law and all deserve our thanks.

I am very proud of the Drug Price Competition and Patent Term Restoration Act, which has done so much to help consumers have access to more affordable medications.

The underpinning of this great consumer measure is a very complex, legal framework. Any changes to the law must be carefully scrutinized to assure they achieve their intended effect.

I plan to monitor very carefully the implementation of the first, substantial Waxman-Hatch amendments in almost two decades and intend to work with my colleagues to make certain they achieve their intended purpose.

I welcome the views of any interested parties who wish to comment on this discussion draft, as well as other implementation issues that the Congress should consider.

At the same time, I think there are broader issues here it behooves the Congress to consider. These include the issue of follow-on biologics as well as whether the law today contains the appropriate incentives, including intellectual property incentives, for pharmaceutical research and development in light of the fact that science appears to be moving away from an era of large patient population, small-molecule medicine to small patient-population, large biological molecule therapies.

Mr. President, I ask unanimous consent that the draft be printed in the RECORD.

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

S. 812

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

SECTION 1. FORFEITURE OF 180-DAY EXCLUSIVITY PERIOD.

(a) MAINTENANCE OF CERTIFICATION THAT PATENT IS INVALID OR WILL NOT BE INFRINGED.—Section 505(j)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(2)) (as amended by section 1101(a)(1)(B) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003) is amended by adding at the end the following:

''(E) MAINTENANCE OF CERTIFICATION THAT PATENT IS INVALID OR WILL NOT BE INFRINGED.—An applicant shall not be permitted to maintain a certification under subparagraph (A)(vii)(IV) with respect to a patent as of the date on which any of the following occurs:

''(i) The Secretary notifies the applicant that the Secretary has granted and made effective a request by the holder of the application approved under subsection (b) to withdraw the patent that is the subject of the certification or the information with respect to the patent is otherwise no longer contained in the application approved under subsection (b), except that no request to withdraw the patent, if based on a court decision or court judgment with respect to the patent, shall be made effective for at least 75 days after the court decision or court judgment and shall not be made effective during the 180-day exclusivity period of the applicant if the exclusivity period commences during the 75-day period.

''(ii) The patent that is the subject of the certification expires.

''(iii) A court enters a final decision from which no appeal (other than a petition to the Supreme Court for a writ of certiorari) has been or can be taken that the patent that is the subject of the certification is infringed by the product at issue in the application submitted by the applicant, or a court signs a settlement order or consent decree that enters a final judgment and includes a finding that the patent that is the subject of the certification is infringed by the product at issue in the application submitted by the applicant and, in addition, the patent that is the subject of the certification is not found to be invalid or unenforceable in the final decision or the final judgment.''.

(b) FAILURE TO MARKET.—Section 505(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(5)) (as amended by section 1102(a)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003) is amended

(1) in subparagraph (B)(iv)—

(A) in subclause (I), by inserting after ''certification,'' the following: ''is thereafter permitted to maintain such a certification, and has thereafter maintained such a certification with respect to a patent for which such a certification was submitted by the first applicant on the first applicant date,''; and

(B) in subclause (II)—

(i) by redesignating items (cc) and (dd) as items (dd) and (ee), respectively; and

(ii) by striking item (bb) and inserting the following:

''(bb) FIRST APPLICANT.—The term 'first applicant' means an applicant that submits on the first applicant date a substantially complete application for approval of the drug that contains the certification described in paragraph (2)(A)(vii)(IV) with respect to a patent for which information was filed under subsection (b) or (c) and is thereafter permitted to maintain and has thereafter maintained the certification described in paragraph (2)(A)(vii)(IV) with respect to the patent.

''(cc) FIRST APPLICANT DATE.—The term 'first applicant date' means the first day on which a substantially complete application is submitted for approval of a drug containing the certification described in paragraph (2)(A)(vii)(IV) with respect to a patent for which information was filed under subsection (b) or (c)''; and

(2) in subparagraph (D), by striking subclause (I) and inserting the following:

''(I) FAILURE TO MARKET.—

''(aa) IN GENERAL.—Except as provided in item (bb), a first applicant fails to market the drug by the earlier of the date that is—

''(AA) 75 days after the date on which the approval of the application of the first applicant is made effective under subparagraph (B)(iii); or

''(BB) 30 months after the date of submission of the application of the first applicant;

''(bb) EXCEPTION.—If the first applicant has on the first application date submitted the certification described in paragraph (2)(A)(vii)(IV) with respect to a patent, and the first applicant is thereafter permitted to maintain and has thereafter maintained the certification with respect to the patent, the forfeiture under this subclause shall not take effect before the date that is 75 days after the date on which any of the following occurs with respect to the patent:

''(AA) In an infringement action brought against the first applicant or any other applicant (which other applicant has obtained tentative approval) with respect to the patent or in a declaratory judgment action brought by the first applicant or any other

applicant (which other applicant has obtained tentative approval) with respect to the patent, a court enters a final decision from which no appeal (other than a petition to the Supreme Court for a writ of certiorari) has been or can be taken that the patent is invalid or not infringed (including any dismissal for lack of subject matter jurisdiction as a result of a representation of the patent owner, and any other person with the right to enforce the patent, that the patent will not be infringed by, or will not be enforced against, the product of the applicant).

''(BB) In an infringement action or a declaratory judgment action described in subitem (AA), a court signs a settlement order or consent decree that enters a final judgment and includes a finding that the patent is invalid or not infringed.

''(CC) The Secretary notifies the first applicant that a certification has been received by the Secretary from another applicant that had obtained tentative approval and was eligible as of the date of the certification to receive final approval, but for 180-day exclusivity period, stating that the 45-day period referred to in subparagraph (B)(iii) had ended without a civil action for patent infringement having been brought against such other applicant and, in addition, such other applicant had received from the patent owner (and from and any other person with the right to enforce the patent) a written representation that the patent will not be infringed by the commercial manufacture, use, offer for sale, or sale of the product at issue in the application submitted by such other applicant, or will not be enforced against the commercial manufacture, use, offer for sale, or sale of the product at issue in the application submitted by such other applicant.''.

[Alternative language for (CC)—equivalent treatment to (AA) and (BB).]

[''(CC) The Secretary notifies all applicants that, after the forty-five day period referred to in subparagraph (B)(iii) has expired without a civil action for patent infringement having been brought against the first applicant or against any other applicant that has obtained tentative approval, that applicant has certified to the Secretary that that applicant has received from the patent owner (and from and any other person with the right to enforce the patent) a written representation that the patent will not be infringed by the commercial manufacture, use, offer for sale, or sale of the product at issue in the application submitted by that applicant, or will not be enforced against the commercial manufacture, use, offer for sale, or sale of the product at issue in the application submitted by that applicant.]

THE TVPA REAUTHORIZATION

Mr. BROWNBACK. Mr. President, I am pleased to report the success of a bipartisan effort in which Senators, Members of the House, their key staff aides and a broad variety of religious and human rights groups have engaged.

This effort has produced a greatly strengthened Trafficking Victims Protection Reauthorization Act which has passed the House, and which it is my honor to bring to the Senate floor. I am pleased to note that my colleague, the distinguished Senator from New York, Mr. SCHUMER, has joined me in cosponsoring this important legislation. The act will greatly strengthen America's hand in combating the slavery issue and the women's issue of our time—the annual trafficking of as many as 2 million women and children into sex and slave bondage. As such, this act will give needed tools to President Bush, and to all future Presidents, to take on the world's trafficking mafias and to protect the traffickers' victims. It will thus also greatly facilitate the pledge made by President Bush in his United Nations speech of September 23 to make the war against trafficking a major commitment of his administration.

But I am pleased and deeply honored to bring this bill before my colleagues for yet another reason—one that I know will resonate with every Member of this body. Both in spirit and substance, the measure now before the Senate captures the hopes and the ideals of Paul and Sheila Wellstone, without whose passion and commitment no U.S. anti-trafficking initiative against worldwide sex and slave trafficking would have been possible. It is one of my greatest sources of satisfaction and fulfillment as a member of this body to have worked with Paul and with Sheila to sponsor the Trafficking Victims Protection Act of 2000. In doing so, I and others were regularly inspired by these two friends to go the extra mile for the bill. After our first Foreign Relations Committee hearing on the bill, Paul remarked that the victims who testified on behalf of the bill had produced his most moving experience as a Senator. This says much about the man Paul was, and about the manner in which his and Sheila's priorities were always directed on behalf of abused, vulnerable, and powerless victims.

We honor Paul and Shelia today by taking up this bill. As pleased as they would be by that gesture, it would be a much more meaningful tribute if we are able to pass the Trafficking Victims Protection Reauthorization Act, for there are a number of vital, strengthening provisions in the act that will greatly improve the fight against trafficking.

First, the Director of the State Department Office to Combat and Monitor Trafficking in Persons has been raised to ambassadorial rank. This step will elevate the status of the office precisely as it will befit its present incumbent. John Miller, a former House Member known to many of us, is an able, respected, committed, and moral man who is now the Federal Government's chief antislavery and antitrafficking official. He has served as head of the TIP Office with great effectiveness and skill, and I am confident that, as Ambassador Miller, he will continue to do so.

Next, the reauthorization act resolves one of the original act's greatest operational failings by ensuring that ''Tier II'' designations—given to counties that neither satisfy the act's high standards for anti-trafficking performance nor clearly merit the act's automatic sanctions—will not become an overbroad catchill category. Under the act, countries on the cusp of Tier III designations will be placed in a Tier II Special Watch List category and their performance in eliminating trafficking will be subject to special scrutiny, and the issuance of a special February 1 progress report and designation evaluation. Thus, the Special Watch List category will maintain strong pressure on countries that may ''almost but not quite'' merit a sanctions-bearing Tier III designation, and will permit clear differentiation between those countries and others placed on Tier II because they have not met the very high standards required for Tier I designations.

Three points should be made in connection with the act's Special Watch List category. First, countries otherwise meriting Tier III designation but placed on the Tier II Special Watch List because they have made section (e)(3)(A)(iii)(III) ''commitments . . . to take additional future steps over the next year'' should only avoid Tier III designation under extraordinary circumstances, and only where they are engaged in implementing important and curative steps likely to be rapidly completed. Next, the provisions of section (e)(3)(A)(iii)(II) that authorize Special Watch List treatment of countries that have failed to engage in increased efforts to limit trafficking, prosecute traffickers and protect trafficking victims should not be construed to automatically bar Tier II designations when such efforts have not been made. Finally, to address a matter of legitimate concern to the State Department, the act's mandate that special Feburary 1 reports are to be issued for all Special Watch List countries needs to be understood in terms of our intention that only countries on the Tier II-Tier III cusp are to be the subjects of full and complete reports. Finally, as an overall matter, it should be made clear that failure to be placed on the Tier II Special Watch List will not bar a country from being placed on Tier II in the following year.

A third major category of change established by the act involves the establishment of additional ''minimum standards'' criteria for determining appropriate tier designations. First, the reauthorization makes clear that countries may not escape more severe tier designations if they fail to keep meaningful records of what they have done to investigate, prosecute, convict and otherwise monitor their performance in the war against trafficking. Next, the reauthorization establishes an ''appreciable progress'' standard evaluating a country's performance—a standard not intended to exculpate countries still significantly complicit in trafficking activities, but to ensure that countries failing to make measurable progress on a year-to-year basis will be negatively affected. In other words, the reauthorization establishes a bottom-line ''performance standard'' to supplement the original act's ''effort standards.'' Next, and critically, the reauthorization adds a standard based

on the percentage of noncitizen trafficking victims. This provision was added to permit the Trafficking Office to employ critical and needed standards to evaluate the antitrafficking performance of countries that have legitimized prostitution. Simply put, this provision both allows and mandates the Trafficking Office to cut through dubious claims by legalizing countries that they are providing meaningful protections to their so-called ''sex workers.''

A final point with regard to the act's minimum standards criteria for determining countries' tier status: It is the clear intent of the Congress, and there should be no mistake about this, that compliance with one or a few of the criteria does not, must not, lead to automatic designation as a Tier I country. Likewise, compliance with one or a few of the criteria shall not, must not, in and of inself shield countries from Tier III designation. The designation process is intended to be one of judgment and balance; and is not formulaic except to the intent of creating a presumption that Tier I status should only be granted to countries that comply with all of the minimum standards criteria. Countries that deliberately and grossly violate ''only some'' of the act's minimum standards criteria may be designated as Tier III countries if this be the judgment of the Trafficking Office—a judgment that should be exercised where there are gross and flagrant failures to comply with other minimum standards criteria. And, as noted, compliance with most of the statute's minimum standards criteria, combined with even modes noncompliance with a remaining few, is not intended to produce automatic Tier I designations.

Finally, a few words are in order regarding the Senior Policy Operating Group created by this spring's Omnibus Appropriations Act, which today's reauthorization bill both incorporates and strengthens. While what I am about to say should be clear from the act's language, and will be made explicit in the omnibus appropriations bill which the Senate was unfortunately not able to enact today. While the omnibus bill will take care of some of the issues related to the Senior Policy Operating Group with explicit statutory language, I nonetheless believe it important to make Congress's unmistakable intention clear in today's floor statement.

First, it should be clear that Congress established the Senior Policy Operating Group as the body it intended to coordinate all of the Government's antitrafficing grants, policies and grant policies. The Senior Policy Operating Group is comprised of senior political appointees of each of the agencies with trafficking policy responsibilities, and is thus perfectly structured to perform a vital function of monitoring government-wide policy consistency. As presently constituted, the Senior Policy Operating Group is made up of such members as TIP Office Director John Miller, Deputy HHS Secretary Claude Allen, Assistant Attorney General for Legal Policy Dan Bryant, Assistant AID Administrator for Eastern Europe and Russia Kent Hill. The committee meets on a regular basis and has produced an extraordinary consensus, government-wide grant policy directive. Thus, the Senior Policy Operating Group, including its chairman, John Miller, can and must perform the function intended for it by Congress: to be the sole and accountable body responsible for coordinating Federal anti-trafficking policies, grants and grant policies. Having said this, it should be noted that the coordinating responsibilities of the Senior Policy Operating Group are not intended to supercede the decision-making authority of the constituent members of the Task Force to Monitor and Combat Trafficking in Persons, to whom operating group members continue to report.

Finally, as should be clear from the language of the act, but as is also worth unmistakably establishing, Congress did not intend that the designation of grants and/or policies as being for ''public health'' or like purposes should in any way remove such policies or grants from Senior Policy Operating Group coordinating jurisdiction when those policies or grants deal with the activities of traffickers, brothel owners, pimps or the women and children from whose activities they profit. It is vital for the Federal Government to make consistent and otherwise harmonize its activities to stop the spread of communicable disease and AIDS and its activities designed to prosecute traffickers and eliminate trafficking. Both are vital objectives, and as recent letters form the Moscow Duma have clearly shown, such harmonization is imperatively pressing. Some persons may believe that forming partnerships with traffickers, pimps, and brothel owners in order to ensure use of clean needles and condoms, and doing so in a manner which legitimizes the abusers and enslavers of women and children and shields them from prosecution, is the way to go. They are wrong. Others may believe that public health measurers to protect prostitutes from AIDS always stand in the way of prosecuting the traffickers, pimps and brothel owners who exploit them. They too are wrong. What Congress intends is that a Senior Policy Operating Group comprised of political appointees of all involved agencies is the body responsible for harmonizing the above objectives into a single set of government-wide policies.

All this said, I reiterate my belief that the memory and spirit of Paul and Sheila Wellstone are alive in the bill before us, as are the spirits of such activists as the great English Parliamentarian and evangelist William Wilberforce, and the abolitionist leaders of my home State of Kansas who led the 19th century war against the chattel enslavement of African men and women. If we do it right, the Trafficking Victims Protection Act will be seen by generations to come to have met the high standards of William Wilberforce and the Free Kansas activists. If we do it right, we will have created a true monument to the memory of Paul and Sheila Wellstone. This act makes this possible. I urge my colleagues to pass it.

CONSOLIDATED APPROPRIATIONS ACT, 2004

Mr. NICKLES. Mr. President, I take this opportunity to provide an initial report on the budgetary effect of the conference report to accompany H.R. 2673, the Consolidated Appropriations Act for 2004, otherwise referred to as the omnibus appropriation bill.

While I will share scoring on these individual bills compared to each subcommittee's 302(b) allocation during later debate, allow me to summarize where this bill stands relative to the 2004 budget resolution as it applies in the Senate.

Combined with the other six appropriation bills already enacted for 2004 as well as the 2004 Iraq supplemental, this conference report would set total non-emergency discretionary funding for 2004 at $791.023 billion in budget authority and $862.889 billion in outlays. Because it does not include sufficient offsets to pay for the additional spending included within, this conference report exceeds the discretionary allocations and caps provided by the budget resolution ($784.675 billion in budget authority and $861.084 billion in outlays) by $6.348 in budget authority and $1,805 billion in outlays. Therefore, Budget Act points of order (under sections 302(f) and 311) and a budget resolution (section 405(b)) point of order apply against the bill. Other budget resolution points of order apply as well, but they are of a more incidental nature.

Mr. President, I ask unanimous consent that a table displaying the budget Committee scoring of the bill be printed in the RECORD.

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

2004 APPROPRIATIONS INCLUDING H.R. 2673, THE CONSOLIDATED APPROPRIATIONS ACT, 2004—SPENDING COMPARISONS—CONFERENCE REPORT

[Fiscal year 2004, $ millions]

	Budget authority	Outlays
Discretionary	791,023	862,889
Budget Resolution allocation/cap	784,675	861,084
Difference	6,348	1,805

Note: Totals adjusted for consistency with scorekeeping conventions.
Prepared by SBC Majority Staff, 12/9/2003.

AMENDMENT TO S. 671, THE MISCELLANEOUS TRADE & TECHNICAL CORRECTIONS ACT OF 2003

Mr. SPECTER. Mr. President, today I seek recognition to discuss an amendment to S. 671, the Miscellaneous Trade

and Technical Corrections Act of 2003. My amendment will strengthen our domestic dress shirt manufacturers and the pima cotton growers. My amendment is a technical correction that levels the playing field by correcting an anomaly in our trade laws that has unfairly advantaged foreign producers and sent hundreds of jobs offshore.

The amendment reduces duties levied on cotton shirting fabric, fabric that is not made in the United States. Currently, U.S. law recognized this lack of fabric availability and granted special favorable trade concessions to manufacturers in Canada, Mexico, the Caribbean, the Andean region, and Africa. The U.S. has allowed shirts to enter this country duty-free from so many other countries, while we have failed to reduce tariffs on those manufacturers that stayed in the U.S. and were forced to compete on these uneven terms. My amendment will correct this inequity.

This amendment also recognizes the need to creatively promote the U.S. shirting manufacturing and textiles sectors, and does so through the creation of a Cotton Competitiveness grant program, which is funded through a portion of previously collected duties.

Our country has experienced an enormous loss of jobs in the manufacturing sector. It is critical that our domestic manufactures be able to compete on a level playing field. In the case of the domestic dress shirting industry, the problem is our own government imposing a tariff of up to 11 percent upon the import of fabric made from U.S. pima cotton. My amendment is a concrete step that this Congress can take to reduce the hemorrhage of U.S. manufacturing jobs.

One group of beneficiaries of this amendment is a Gitman Brothers factory in Ashland, PA. The Ashland Shirt and Pajama factory was built in 1948 and employs 265 workers. This factory in the Lehigh Valley turns out world class shirts with such labels as Burberry and Saks Fifth Avenue that are shipped across the U.S. These workers and their families deserve trade laws that do not chase their jobs offshore. This amendment enjoys the support of the domestic shirting industry, UNITE, and the pima cotton associations.

I offer this legislation on behalf of the men and women of the Gitman factory in Ashland, the domestic dress shirting industry, and the pima cotton growers, so that for them free trade will indeed be fair trade as well.

SEPTEMBER 11TH VICTIM COMPENSATION FUND EXTENSION ACT OF 2003

Mr. LEAHY. Mr. President, I am saddened that the Senate has been unable to reach agreement to extend the pending deadline of the September 11 Victim Compensation Fund to allow for more time for the many still grieving victims who have been unable to bring themselves to endure the painful process of filing claims.

On September 9, Senators DURBIN, SCHUMER, DODD, LIEBERMAN, CLINTON, CORZINE, and LAUTENBERG joined with me to introduce S. 1602, the September 11th Victim Compensation Fund Extension Act of 2003. Unfortunately, this bill continues to be bottlenecked in the Judiciary Committee and blocked from Senate passage by anonymous Republican holds on the Senate floor. Every Democratic Senator has agreed to pass our legislation by unanimous consent, but one or more members of the majority are still objecting to its passage in the Senate.

Senator DASCHLE, Senator LAUTENBERG and I have reached out to our Republican colleagues to try to achieve a compromise to extend this arbitrary deadline. We have expressed our willingness to do so for a period of time less than one year, but unfortunately the opponents of this bill have refused to meet us partway. Moreover, they have been unable to explain why it is necessary to force these families to confront this pain during an already stressful time—the holiday season.

Along with Senator DASCHLE, Congressman GEPHARDT and others, I worked hard to create the Victims Fund in the wake of the September 11 attacks. We insisted that it be included in the legislation to bail out the airlines passed in the wake of the most devastating terrorist attacks on American soil. The authorized deadline of December 22, 2003, for applications to the Victims Fund is rapidly approaching, but it has become apparent that many families need more time before they can take that step. Thus, far only a minority of families have applied to the Fund for compensation, according to the Department of Justice.

Ken Feinberg, the Special Master of the Fund, has been doing his best to get victims families to understand their rights and I commend him and others for their efforts to reach out to the victims and their families.

Victims support groups have told me that to this day, they are still receiving calls from individuals who understand that the deadline is approaching but cannot face the emotional pain of preparing a claim. In a survey conducted recently by victims' organizations, 87 percent of the 356 victims who responded expressed support for extending the December 22 deadline by 1 year. Mr. Feinberg has also commented that many victims remain too paralyzed by their grief to confront the logistical burden and emotional pain of filing a death claim.

In light of this painful reality, I believe it would have been appropriate to extend the deadline for filing applications to the Victims Fund. This extension would have given grieving families additional time to mourn those who were lost and to overcome the emotional challenges of filing paperwork with the Victims Fund. Every single September 11 victims support group that I have spoken with agreed that a modest extension would provide some relief during these dark days for victims' families as they endure the grieving process. There is simply no reason not to grant these families a little bit of relief by extending the deadline. I am disappointed and saddened that anonymous Republican holds will result in unnecessarily closing off the September 11 Victim Fund before each victim had a sufficient chance to consider their options.

With the holiday season upon us, victims did not need this arbitrary deadline confronting them. This was something that the Senate could and should have accomplished for the still grieving victims of September 11. It is an unnecessary shame that we have not done so.

ADDITIONAL STATEMENTS

FREEDOM TO TRAVEL TO CUBA ACT OF 2003

• Mr. BAUCUS. Mr. President, I rise today to express deep frustration with the way congressional leaders have thwarted the will of the majority of Members on Cuba.

Last month, the Senate approved an amendment to the Transportation-Treasury appropriations bill that would suspend enforcement of the Cuba travel restrictions. We passed this amendment 59 to 36—a 23-vote margin. In September, the House approved the same amendment 227 to 188—a 39-vote margin.

So, both Chambers of Congress approved the same amendment to suspend enforcement of the Cuba travel ban and to allow travel by Americans to Cuba. These votes reflected the sentiments of the overwhelming majority of Americans who support ending the utterly ineffectual travel ban.

Opinion leaders, too, in newspapers all across the country, in papers big and small, applauded the Senate and House votes. Orlando, Chicago, New York, Winston-Salem, Tuscaloosa, and San Diego. Papers from every corner of the country commended Congress for its efforts and called for an end to the absurd travel ban.

Then, the Senate Foreign Relations approved by a 13-to-5 margin a bill—S. 950, the Freedom to Travel to Cuba Act of 2003—that would permanently repeal the Cuba travel ban. Senator ENZI and I, along with 31 other colleagues—fully one-third of the Senate, from both sides of the aisle and representing every region of this country—introduced this legislation because we felt the time had come to end this pointless ban on American liberty. As its vote demonstrates, the Senate Foreign Relations Committee agrees.

Given these votes, and given the popular support for our efforts to end the travel ban, one would think the conferees of the Transportation-Treasury appropriations bill would not be able to strip out our amendment. When the Senate and House have approved the

same amendment, there ought to be nothing for conferees to reconcile.

But here we are with an omnibus bill that does not include our amendment to suspend enforcement of the Cuba travel ban. How did this happen?

It wasn't the conferees. Thirteen of the 16 Senate conferees were supportive of our amendment. The conferees would not have stripped out the amendment.

But the congressional leadership would. And they did, before even submitting the bill to the conference committee for consideration. They pointed to a phony veto threat—not made by the President—to justify a blatantly political move calculated to improve their standing with a small number of constituents in Florida.

This, despite a recent poll by the Miami Herald and St. Petersburg Times that found that most Florida voters favor lifting the ban on travel to Cuba—by better than a 2-to-1 margin.

Is this democracy in action? Is this the example we are setting for the rest of the world? Is this the example of participatory government that we hold to the Cuban dissidents as the beacon of freedom and liberty?

If this ugly episode were the only consequence of this administration's obsession with retaining the failed Cuba travel ban, that would be bad enough.

But it is not the only consequence. Far worse, the administration's pandering to its south Florida allies is undermining U.S. efforts to fight terrorism.

The Treasury Department's Office of Foreign Assets Control, OFAC, is charged with enforcing sanctions against foreign countries, terrorist networks, international narcotics traffickers, and those involved in proliferating weapons of mass destruction.●

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

WILLIAM JOHNSON'S RETIREMENT

● Mr. CARPER. Mr. President, I wish to recognize William Johnson's retirement after 33 years of teaching in the Brandywine School District. His dedication has won him the respect of two generations of faculty and students alike, along with the gratitude of many in our State. He has been, and remains, a trusted friend.

Mr. Johnson has spent much of his life in public service. He served honorably in the United States Army for 6 years, from 1965–1971. His teaching career at Hanby Middle School in Wilmington, Delaware, where he has taught Earth and Space Science for 23 years comes to an end this month. He will be sorely missed there.

Mr. Johnson received his bachelor's degree in Education from Delaware State University and his Master's in Education from Antioch University. He has also taken advanced studies classes at the University of Pennsylvania and has completed all the classes needed for a doctorate degree with California Coast University. He will be dedicating much of his time after his retirement to working on his dissertation in Earth and Space Science.

Having taught at Hanby since 1980, there are many attributes that make Mr. Johnson a great teacher. He has an unparalleled commitment to his craft. He stays after school on a regular basis to work on experiments with his students, teaches remedial classes with the same expectations as every other class, and ensures his students have a lot of hands on experience in the classroom. In 1997, Mr. Johnson led a group of six students in an inventor's club as they tried to come up with inventions for the Duracell Battery Company. With his leadership and guidance, the students came up with several creations, including a curb sensor to help cars detect curbs behind them, a laser device that takes atmospheric and meteorological measurements, and a computer program that analyzes satellites and orbits around the earth. These inventions are extraordinary for middle school students.

In addition, in October of 1998, Mr. Johnson was honored and certified by then-Vice President Al Gore as a teacher of the Global Learning and Observations to Benefit the Environment Program. Some 500 people were honored with the certification, which enables the teachers to teach students how to view environmental images and read globe data in hopes of determining the effects of global warming.

Mr. Johnson is a member of the Delaware Teachers of Science, National Science Teachers' Association, American Federation of Teachers and the Satellites Educators' Association. Over the years, Mr. Johnson has received many awards and honors including Who's Who Teacher of the Year, FAME Teacher of the Year, as well as Hanby's Teacher of the Year candidate. He also serves as a representative for the United Negro College Fund—UNCF—in the Brandywine School District, coordinating donations from teachers and administrators. The fund goes to support various black colleges across the nation.

Mr. Johnson is married to the former M. Patricia Durnell. The two were married in West Chester, PA in August, 1981, and now reside in Chadds Ford, PA. His hobbies and interests include reading, jogging, collecting baseball cards and jazz albums, baseball, golf, and alto saxophone.

Mr. Johnson is forever the consummate professional. He works hard at his job, works hard for his students, and never desires the spotlight or recognition for all his contributions. Through his tireless efforts, he has made a profound difference in the lives of thousands of students and enhanced the quality of life for an entire state. Upon his retirement, he will leave behind a legacy of commitment to public service for the generations that will follow. On behalf of each student whose life Mr. Johnson has touched, let me express our heartfelt gratitude. We congratulate him on a truly remarkable and distinguished career, and we wish him and his family only the very best in all that lies ahead for each of them.●

RECOGNIZING THE UNIVERSITY OF VIRGINIA ROTC

● Mr. ALLEN. Mr. President, I am pleased today to recognize the outstanding work of the Reserve Officers' Training Corps cadets at the University of Virginia who participated in a 24-hour vigil on September 15–16, 2003 in honor of National POW/MIA Remembrance Day. The POW/MIA Vigil specifically honors those men and women who defended our nation and never returned with a 24-hour, tri-service honor ceremony.

The ROTC cadets at the University of Virginia started their POW/MIA vigils in 2000 when Air Force cadet Elizabeth McGraw served as Arnold Air Society Deputy Commander. Subsequent vigils were commanded by Cadet Christopher Tulip in 2001, Cadet Tara Graul in 2002, and Cadet Jeremy Porto in 2003.

This year's Vigil planning committee included Cadets James Hayne, Joshua Becker, Alina Sullivan, Dan Barton, and Nic Skirpan. U.S. Air Force Colonel John C. Vrba, commander of AFROTC Detachment 890 at Virginia, supervised the ceremony, which began with a solemn precision drill performance by members of the AFROTC Drill Team: Cadets Suzanne Hahl, Jacklyn Noveras, Brandon Bert, Timothy Farwell, and James Hayne. Air Force and Army Cadets, and Navy Midshipmen from the three ROTC detachments then marched in solemn 15 minute ''honor shifts'' guarding the American flag which was displayed prominently on the back wall of the University of Virginia's Amphitheater.

One of the MIAs that these young Cadets honored was U.S. Army Captain Humbert Roque ''Rocky'' Versace, a 1959 graduate of the U.S. Military Academy at West Point. On July 8, 2002, I had the distinct honor of being present at the White House for the posthumous awarding of the Medal of Honor by President George W. Bush for Rocky's conspicuous gallantry at the risk of his life above and beyond the call of duty while a captive of the Viet Cong from October 29, 1965, until he was executed on or about September 26, 1965. His captors took his life after they had given up trying to break Rocky's indomitable will to resist interrogation and indoctrination, his unshakable faith in God, and his steadfast trust in his country and his fellow prisoners.

When I visited the White House last year for Captain Versace's Medal of Honor ceremony, I was among many of Captain Versace's West Point classmates and family members. One of those classmates was John Gurr, who

worked tirelessly to get approval for the creation of the Captain Rocky Versace Memorial Plaza and Vietnam Veterans Memorial in the Captain's boyhood neighborhood in the Del Ray section of Alexandria.

At the conclusion of this year's POW/MIA Vigil, Mr. Gurr made a powerful speech to the UVA ROTC cadets on the great history of honor by Vietnam POWs, which produced five Medal of Honor recipients, and made Rocky Versace the only Army POW to receive the Medal of Honor for his heroism while in captivity during the Vietnam War.

Mr. President, I'd like to enter John Gurr's inspiring words as an extension of my remarks:

I am indeed grateful for this opportunity to speak for my comrades in arms and I would thank you for this opportunity were it not axiomatic in the military profession that you never thank a soldier for doing his duty. You can commend him or her, and I herewith commend wholeheartedly the ROTC cadet corps of the University of Virginia for the vigil you have mounted in memory of our nation's POWs and MIAs. It was your duty to do so, and you did it well. I will share with you up front that I came to this amphitheater last night at around 0200 to witness your vigil for myself. I stood in the deep background for over a half an hour and watched your sentinels, and I thought about what message I will carry to you today.

Here it is in a nutshell, young men and women: the heroic legacies of our fighting men and women, most certainly including those men who suffered so terribly yet endured with honor in the torture chambers of the Vietnamese communist forces, the heroic legacies of those predecessors are soon to pass to you. Be ready, because they are sacred. Duty, Honor, Country. Duty—be professionally ready, do your duty well; do something extra. Honor—guard and cherish your personal honor. Country—stand ready to ever defend this great democracy, which is a unique bastion in a dangerous world.

A bit of background on the POW situation as it developed and ended in Vietnam. There were 771 Americans captured or interned in the Vietnam War, far, far fewer than in any of our major interventions since World War I. 113 of them—almost 15%—died in captivity. The vast majority of POWs were officers, most of them aviators shot down in the north, and the vast majority of them were held in North Vietnam. There were some 19 such prison camps, where a rough total of some 550 men were held. In the north, brutal tortures were the rule, and the death rate was about 5%.

In the much smaller and equally scattered prison camps in South Vietnam and Laos, hunger and disease and brutality were common, but torture was much less systematic. Even so, the death rate in the southern camps was about 20%—four times higher than in the north where food and medical care and the support of fellow prisoners made the chances of survival better.

As to the purpose of torture in the northern camps, let me quote from Vice Admiral James Bond Stockdale, who suffered 7½ years in captivity there and was the ranking man in the camps. I quote from his ''Afterword'' in the famed book Honor Bound which details the experiences of American POWs in Southeast Asia:

''I was the only wing commander in that long war to lead prisoner resistance and therefore the natural target for Major Bui—'The Cat'—Commissar of the North Vietnamese prison camps. The business of the Commissar was extortion. He had to continually intimidate—to break—a number of POWs so that he had Americans at the ready to parade before press conferences for foreign 'dignitaries' (often Americans from the antiwar movement) and to exploit for propaganda statements favorable to the communist agenda. Our job was to hold out as long as we could, to make it difficult for The Cat to exploit us. To do this, he hired experienced 'torture guards' who in 40 minutes or so, with bars and ropes, could reduce a self-respecting American officer to a sobbing wreck.''

Admiral Stockdale and his fellow prisoners in the north early decided that their goal was to resist as best they could and return to the U.S. with honor. I say again, ''with honor.'' Thus the title of the book from which I quote, ''Honor Bound.'' The American POWs were ''Honor Bound.'' Under circumstances that will draw a tear if you understand. Admiral Stockdale was awarded the Congressional Medal of Honor upon his return. Duty well done, Admiral! Well done!

As to the prisoners in South Vietnam, I will speak with an indirect credibility of the experience of a West Point classmate of mine, Captain ''Rocky'' Versace. I will speak with a passion because ''Rocky'' was a friend of mine, and he, too, won the Congressional Medal of Honor for his resistance and leadership as a prisoner of war. A difference is that Versace was executed for his stubborn, and often even argumentative and aggressive resistance to the communist effort to break him for propaganda purposes. The Medal of Honor was presented posthumously, to ''Rocky's'' family in the White House on July 8, 2002, in the presence of 250 people which included 89 of his West Point classmates. As we said to ourselves at the time, ''We came for you 'Rocky.' We were late, but we came.'' ''Rocky'' Versace's story is one of a young man of exceptional physical endurance and truly extraordinary mental toughness. He was deeply religious, and he had come to love and admire the South Vietnamese people for whom and alongside whom he had fought for almost 18 months before he was severely wounded in battle and captured in October 1963. For the first five months of his captivity in the Delta of South Vietnam he was held in a small camp with only two other American prisoners. Successive teams of Viet Cong indoctrinators sought to break ''Rocky,'' to get him to make statements rejecting the South Vietnamese effort to resist a communist takeover, and they tried to get him to make recordings or quick movies opposing America's intervention on behalf of the South Vietnamese forces. Fluent in Vietnamese and French, he argued so credibly with his indoctrinators that they had to switch to English because they began to notice that the enlisted communist guards were starting to nod their heads in agreement with some of ''Rocky's'' rebuttals. ''Rocky's'' fellow prisoners heard him say in one of the indoctrination sessions ''You can make me come here, and you can make me listen, but frankly I don't believe a word you say and you can go to hell.'' On another occasion they heard him say ''I know that if I am true to myself and to my God, that something better awaits in the hereafter. So you might as well kill me now.''

''Rocky'' attempted escape four times and was captured, beaten and leg-ironed in a stifling bamboo cage after each such unsuccessful attempt. Only three weeks after his capture and on his first attempt, he had to drag himself through the jungle on his belly because he had taken three rounds in his right leg in the battle in which he'd been captured, and he could not walk. As a captain and the ranking man in his POW camp, he sought to encourage his somewhat separated fellow prisoners by singing ''God Bless America'' and other popular or patriotic songs, frequently inserting a stray word or two to communicate with his men. ''Rocky'' set the example, and he took the heat off his fellow prisoners.

After five months, ''Rocky'' was deemed to be an incorrigible propaganda prospect, and he was taken from the camp and held in isolation. That's where he was held for the last 18 months of his 23-month captivity. Alone, emaciated by hunger and disease, his head swollen and yellow from jaundice. There were occasional reports during that time from villagers who said that ''Rocky'' was frequently led or dragged through their villages as a sad example of what the American fighting man looked like. Even so, they said that ''Rocky'' sometimes interrupted the propaganda diatribes in the village centers, refuting and embarrassing his captors in his fluent Vietnamese. He was beaten, and one report said that, as he went down, he smiled. ''Rocky'' Versace was a winner.

He was executed in September 1965, ending not only his life but his imminent plan to leave the Army and return to South Vietnam as a Maryknoll missionary. He had been accepted to become a priest-candidate at the Maryknoll Order in Tarrytown, NY. But he never made it there.

Thus ended the life of a decent man, a courageous and unbreakable soldier, and now the only Army man to get the Medal of Honor for conduct as a POW during the Vietnam War.

And now let's turn to you. What you've just heard is a part of your legacy. You must not let it down. Last night there was just one old soldier sitting there in the back of this amphitheater, watching you, watching your vigil, and witnessing the changing of the guard. In a few short months or years, your turn will come to bear the mantle of Duty, Honor, Country. And there will be a ghostly phalanx of old soldiers, sailors, airmen and marines who will always, I repeat ''always,'' be watching you. You cannot fall short of the standard that has been set.

I appreciate this opportunity to speak for my past and present comrades, we commend you for doing your duty so well, and my last words to you are:

Be ready. Be ready.

Mr. President, I would like to commend John Gurr and the ROTC cadets at the University of Virginia for their dedicated service to our Nation and for their work to honor those like Captain Rocky Versace who paid the ultimate sacrifice in defense of America and its ideals. I wish them Godspeed as they stand strong for freedom.●

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

The PASSING OF MEYER ''MIKE'' STEINBERG

● Mr. LAUTENBERG. Mr. President, on December 4, 2003, an outstanding example of the American Dream ended with the passing of Meyer ''Mike'' Steinberg. Mike was a young 84 with a personal vitality and clarity of mind that many far younger people would envy. He was recently stricken with lung cancer even though he had given up smoking more than 30 years ago. He was an individual admired and beloved by those who had the good fortune to know him in his lifetime. This past

Sunday, December 7, Park Avenue Synagogue in New York was filled with 1,000 people who wanted to share the grief of his passing with his family who loved him so deeply that eight of his grandchildren, including an 11-year-old, wanted to share their innermost thoughts of affection and sadness with everyone gathered there.

Mike's life, his grit and determination, his business successes, and his devotion to family are the stuff of which books are often written. In every definition of the American Dream, Mike Steinberg would emerge as an ideal example. From the humblest beginnings, having to end his formal education at the age of 15, he went on, ultimately, to the role of a real estate magnate. He developed, owned, and managed properties from New York to Texas to California.

He was someone I was proud to know. He had a rare ability to attract admiration and respect from all who had contact with him and he will long be remembered as someone who proved that business success, devotion to family, pride in his heritage, and regard for others are still goals to be cherished in these days of disposable relationships.

We grieve his passing but we honor his being and I ask to have printed in the RECORD an item I placed in the New York Times on December 6 commemorating his extraordinary life.

The material follows.

[From the New York Times, Dec. 6, 2003]

STEINBERG, MEYER ''MIKE''.

Steinberg—Meyer ''Mike''. To our dearest husband and Dad from your five lucky girls. We are forever blessed with the love and life you showered upon us. There wasn't a time you weren't there are always knew we could count on you. Our hearts are broken and the void can never be filled. You will be cherished in our hearts forever and ever. We will always honor your memory and we will live our lives by the examples you set for us. You are our King of Hearts, our hero, we will love you forever. Jean, Susan, Bonnie, Carol, and Lois.

Steinberg—Meyer ''Mike''. Extraordinary beloved husband of Jean. Most cherished father of Susan Zises Green, Bonnie S. Englebardt, Carol S. and Michael Weisman, Lois Robbins Zaro and Andrew Zaro. Adoring and revered grandfather of Lynn Zises, Justin H. Green, Danielle and Lara Englebardt, Brett and Jad Weisman, Alex, Olivia, Stephen and Victoria Zaro. Great-grandfather of Isabelle Zises Krugman. Services Sunday, 1 pm, Park Avenue Synagogue, 87th and Madison Ave. In lieu of flowers, contributions may be made to honor his memory to the S.L.E. Foundation for Lupus Research, 149 Madison Ave., NY NY 10016. For further information call Plaza Community Jewish Chapel.

Steinberg—Meyer ''Mike''. An admired friend, extraordinary entrepreneur, beloved family leader, husband, father, grandfather and greatgrandfather. To know him as I did, father of my dearest Bonnie Englebardt, was a special privilege. His success in the business world was outstanding, but it never interfered with his role as the family patriarch. The risks that he took in his business life were always motivated by his desire to protect his family's security. His love of family extended as well to philanthropy. He supported Israel's survival and the fight to cure Lupus disease, among many other programs to help the needy. He was a special human being, someone I cared deeply about, and his memory will be forever an inspiration to all who knew him. Frank R. Lautenberg United States Senator.

Steinberg—Meyer. The Officers, Trustees, Clergy and Members of Park Avenue Synagogue mourn the passing of a devoted congregant. We extend to his wife Jean, his daughters Susan, Bonnie, Carol and Lois and the entire family our heartfelt sympathy. David H. Lincoln Senior Rabbi Amy A.B. Bressman Chairman of the Board Menachem Z. Rosensaft President.

Steinberg—Meyer. The Directors and staff of the S.L.E. Lupus Foundation and the Lupus Research Institute mourn the loss of our dear friend Mike Steinberg, a devoted champion in the fight to conquer lupus. We extend our deepest sympathies to the Steinberg family, his devoted wife Jean and his beloved daughters Bonnie, Carol, Lois, and Susan. Richard K. DeScherer President, The S.L.E. Lupus Foundation.

Steinberg—Meyer. The Gural Family would like to extend its deepest sympathies to the family of Meyer Steinberg. We were proud to call Meyer our friend and partner. He was a true humanitarian, a charitable person in every sense of the word, and his presence will be greatly missed. Our hearts go out to Jean, Susan, Bonnie, Carol, Lois and the entire Steinberg Family for their loss.

Steinberg—Meyer ''Mike''. The Board of Governors and the members of The Seawane Club record with sorrow the loss of our beloved member, Meyer ''Mike'' Steinberg. We extend heartfelt sympathy to his wife Jean and family. Ted Markson, President.

Steinberg—Meyer ''Mike''. We are heartbroken at he passing of our dear friend. Mike had great courage, accomplishment and was a generous philanthropist. Our condolences to his beloved wife Jean and family. He will be missed but not forgotten. Elma and Milton Gilbert.

Steinberg—Meyer. Newmark and Company Real Estate wishes to extend its condolences to the Steinberg Family, on the loss of their husband, father and grandfather Meyer Steinberg. He was both a friend and partner, and he will be greatly missed.

Steinberg—M. ''Mike''. It is with deepest regret that we mourn the loss of a wonderful, caring person who entered our lives years ago and was a model friend, husband, father and leader of people. Our heart goes out to Jean and her beautiful family. Barbara and Philip Altheim.

Steinberg—Meyer. Our deepest condolences to the Steinberg family on the loss of their beloved husband, father, grandfather, and great grandfather. Mike was a man of great fortitude and charity and he will be missed. The Zises family.

Steinberg—Meyer ''Mike''. To Jean and his beloved children and grandchildren, our sincerest condolences. We will sorely miss our dear friend, Love, Laura and Artie Ratner.

Steinberg—Meyer (Mike). My heartfelt sympathy to the Steinberg family on the their loss. Mike will be greatly missed by all his friend and associates. Norman F. Levy.●

PASSING OF FORMER CONGRESSMAN JOE SKEEN

● Mr. DOMENICI. Mr. President, with a heavy sense of sadness today, we mark the passing of former Congressman Joe Skeen from New Mexico.

On Sunday night, Joe Skeen lost his valiant battle with Parkinson's disease. Joe's passing is very hard for me to accept even though he had been ill for so long. We have lost a great friend to New Mexico. Joe fit his district like a hand in a glove, and that fact will define his legacy as a public servant and a man of the people. My heart goes out to Mary and the Skeen family. In visiting with them, I know their sadness and sense of loss is severe.

I had the highest honor of serving the State of New Mexico with this amazing man for more than 20 years. Joe was first elected to the House of Representatives in 1980 as a write-in candidate. He is only the third man in the history of this country to achieve this feat.

As great an accomplishment as this was, history will show that it was among the least of his great achievements. As I am sure you can imagine, the litany of successes that Joe has had in his work for New Mexico is much too long to go into here today. Suffice it to say that New Mexico is infinitely better for having had Joe Skeen representing us in Congress; this country is better for having had Joe participate in making decisions that affect the entire Nation.

Joe was the first to tell you that he had not done it on his own, however. He had a partner in his great adventure who walked beside him every step of the way. Mary, his wife of 57 years, was a calming influence in the storm that is the life of a Congressman. She made it possible for Joe to continue to be a ranching Representative, running the family ranch while Joe served in Washington.

Since Joe Skeen retired from Congress in 2002, I have missed working with him on behalf of New Mexico. We were partners in so many projects for more than three decades. I am from our State's largest city, Albuquerque, and Joe was a rancher from one of the many rural parts of our State. Our different backgrounds did not prevent us from working together; rather, I would characterize them as allowing us to form an even better partnership on behalf of New Mexico.

We first got to know each other in 1960 when I was fresh out of law school and Joe was an up and coming member of our party. A decade later, in 1970, we teamed up together to run for Governor and Lieutenant Governor respectively. And, again in 1980, when Joe Skeen was first elected to Congress, we had the opportunity once again to work side-by-side. More than anything, Joe and I were able to use our respective positions on the House and Senate Appropriations Committees to help New Mexico. He was always a good, solid and dependable man, and always a champion for his district. He certainly left huge shoes for those who follow him.

Today, my wife Nancy and I mourn. Joe is at rest, and our prayers are now with Mary, who has been such a force behind Joe and all his work.●

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

AFRICAN AMERICAN MUSEUM

• Mr. REID. Mr. President, I wanted to amplify the remarks I made a few weeks ago when we approved a bill to create a museum of African American History as part of the Smithsonian Institution, on or near the National Mall.

As I said at the time, the passage of this measure is an enormous tribute to the work of Congressman JOHN LEWIS.

Mr. LEWIS came to Congress as a representative from Atlanta in 1987. The next year he began his fight to create a museum that would tell the story of the African people in the United States of America.

It is a complex story, and a compelling one.

Of course there is the horror of slavery—one of the greatest stains on our Nation's soul. That story must be told—we cannot flinch from the truth, no matter how painful it might be.

But we must not allow it to blind us to the rest of the story . . . to the enormous contributions that people of African descent have made in the United States.

This very Capitol in which we now stand, a magnificent building that is a symbol of freedom around the world, was built with the labor of slaves.

African Americans fought to keep our Nation free . . . even when their own freedom was not fully realized.

And the ideas and talent of African Americans have enriched all of our lives.

From the Nobel laureate Toni Morrison to our great composer Duke Ellington, from the inventor and city planner Benjamin Banneker to the brilliant jurist Thurgood Marshall, from Jesse Owens to Jackie Robinson, our Nation has been inspired and enlightened by our African American citizens.

I regret that black people in this country have had to struggle so hard to win equality and be treated the same as everybody else. I wish that struggle had not been necessary.

Yet, that struggle has had an enormous impact on our Nation. The words and actions of men like Martin Luther King Jr. and JOHN LEWIS have uplifted us all.

Forty years ago, I lived in Washington and attended school here. I will never forget the great March on Washington of August 28, 1963.

Coming from Nevada, I was stunned by the sight of thousands of buses streaming into the city and the hundreds of thousands of people who marched peacefully for their cause. That event touched me in a profound way.

We all remember Martin Luther King's ''I Have A Dream'' speech from that day. It is rightly regarded as one of the greatest speeches of the 20th Century.

But JOHN LEWIS also spoke at the March on Washington—the only speaker from that great event who is still alive today.

And I will never forget what he said—that African Americans must free themselves not only from political slavery, but also from economic slavery.

In the years since then, we have made tremendous progress. The legal rights of African Americans have been secured. But until economic equality and justice are achieved, the fight will not be won.

JOHN LEWIS has never stopped fighting for freedom and justice. That's why he recognizes the importance of a museum that will tell the story of the African American experience.

This museum was first proposed in 1915 by African Americans who had fought in the Civil War.

When Mr. LEWIS arrived in Congress, he adopted the cause as his own.

Each year since 1988, he has fought to create this museum. This year is the first time his bill has passed both the House and the Senate.

The bill has now gone to President Bush, and I hope he will sign it as soon as possible so we can begin the next phase of the journey—raising private contributions to match the Federal funds for the Museum of African American History.

I salute JOHN LEWIS for his good work. Not just the creation of this important museum, but the work of his entire life—the struggle for freedom, equality and justice.•

RECOGNIZING THE BRIDGEWATER JUNIOR LEAGUE ALL-STARS

• Mr. ALLEN. Mr. President, I am very pleased today to recognize the Bridgewater Junior League All-Stars for their third place finish in the Junior League World Series this summer.

Throughout their incredible run, the Bridgewater Junior Leaguers were a source of great pride for their local community. The team of talented 13- and 14-year-olds cruised through the early rounds of the tournament, eventually making it all the way to the finals of the Junior League World Series. This team of winners should be applauded for their exciting play throughout the tournament. The 12 outstanding players on this young team have truly promising futures in front of them.

Congratulations to the Bridgewater All-Stars: Alex Arey, Andrew Armstrong, Daniel Bowman, Alex Crank, Brandon Craun, Kyle Craun, Sam Groseclose, Luke Long, Carl McIntyre, Tyler Milstead, Joshua Tutwiler and Josh Wright, their manager, Don Tutwiler, and coaches Sherrill Wright and Bill Groseclose. They have made Bridgewater and the Commonwealth of Virginia proud of their accomplishments.•

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

TRIBUTE TO SGM PHILIP R. ALBERT

• Mr. LIEBERMAN. Mr. President, I wish to pay tribute to SGM Philip R. Albert, U.S. Army, of Plymouth, CT. A 23-year Army veteran, he had served in Operation Desert Storm and already had a tour in Afghanistan. Sergeant Major Albert was considered an adventurer with a good sense of humor, dedicated to the Army, and devoted to his friends and family.

Joining the Army as a teenager, Sergeant Major Albert was an example of the powerful American spirit which permeates this Nation's history. A member of the 2nd Battalion, 87th Infantry Regiment, 10th Mountain Division, Sergeant Major Albert was killed in a helicopter crash during a combat operation on November 23 in Afghanistan. Five others died with him and eight others were injured.

Sergeant Major Albert who loved the military, served as a messenger of high justice and idealism in the best tradition of American principles and patriotism. I am both proud and grateful that we have the kind of fighting force exemplified by Sergeant Major Albert serving in the Persian Gulf.

Our Nation extends its heartfelt condolences to his mother, brothers, and sisters. We extend our appreciation for sharing this outstanding soldier with us, and we offer our prayers and support. You may be justifiably proud of his contributions which extend above and beyond the normal call of duty.•

OREGON VETERAN HERO

• Mr. SMITH. Mr. President, today I rise to honor an Oregon veteran who has gone above and beyond the call of duty in service to her country and to her State. Blanche Osborn Bross was born on July 21, 1916, and has lived in Oregon since the age of 8.

In 1943, Blanche heeded the call to duty by joining the Women's Air Force Service Pilots, WASP, an experimental program developed to compensate for the lack of men available for pilot training; when American men were critically needed for combat duty during World War II, important piloting jobs across the country were left vacant. WASPs like Blanche spent countless hours training to assume piloting jobs, deliver planes from factories to their domestic bases, tow targets for gunnery practice, and train cadet pilots.

More than 25,000 women applied for the prestigious WASP program, and while 1,830 were chosen for training, a select 1,074 women graduated from the rigorous program. After graduating, Blanche became one of 17 women sent to Columbus, OH, to learn to fly four-engine aircraft. In Ohio, Blanche became a pilot of the legendary B–17 ''Flying Fortress,'' ferrying the enormous aircraft between bases. Fortunately, at 5 feet, 8 inches tall, Blanche was just tall enough to reach the rudder pedals.

After her first assignment in Ohio, Blanche was sent to Fort Myers, FL, to assist in gunnery training. As a pilot, she took gunners up in the air where

they fired at targets towed by a B–25. Many of the gunners had been in male-dominated combat and were shocked to greet women pilots in the cockpit. One soldier even exclaimed, ''I have to write home about this!''

After spending close to a year at Fort Myers, Blanche and three other WASPs were transferred to the Las Vegas gunnery school where they were used in the engineering squadron to test repaired aircraft. The program generated significant publicity during the war, and Blanche was featured in a famous picture of female pilots walking off of the ''Pistol Packin' Mama,'' a B–17 bomber. The photograph has since been used in advertisements for clothing lines, fashion magazines, and historical chronicles.

Blanche lived to fly, and is quick to point out she always felt accepted by the men in the military. On December 20, 1944, however, a bill sent before Congress that would have allowed women to enter the Air Force did not pass, and the WASP program was dismantled. After being deactivated from the WASPs, Blanche joined the American Red Cross and was sent to Kunming, China where, although she did not fly planes, she was heavily involved in operating clubs for service members stationed overseas.

Following her tour in China, Blanche returned to the U.S. to begin a family. In 1957, she married William H. Bross with whom she had a son, Charles. Together, they moved to Portland, OR, where she developed a seaplane flying base. Later in life, Blanche received a commercial pilot license and flew construction crews to work sites.

For many years, one distinct honor alluded Blanche and the other female pilots. The WASPs had retained their civilian status while flying aircraft in World War II, and therefore, were not considered ''veterans'' after the war. At long last in 1977, Blanche and other female pilots were finally recognized for their invaluable service to their country when the WASPs were finally designated as veterans.

Today, Blanche resides with her husband in Bend, OR, where she plays golf on a regular basis, and continues to enjoy the outdoors. When asked what one thing she would want others to know about her, she replied simply, ''I want people to know I'm proud to be an Oregonian and proud to have served this country.''

For her selfless service to others, and to the United States in times of war, I salute Blanche Osborn Bross as an Oregon Veteran Hero.●

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

IN REMEMBRANCE OF JOHN PATRICK HUNTER

● Mr. FEINGOLD. Mr. President, today, I pay tribute to John Patrick Hunter, a respected journalist and a dear friend.

After growing up in Depression-era West Virginia, witnessing the aftermath of Hiroshima, and the paranoia of the McCarthy era, John Patrick used his opposition to war and fierce defense of civil liberties to fuel his passion for journalism. For nearly half a century, John Patrick served as a reporter and editor for the Capital Times in Madison, WI. He challenged politicians and policies, but at the same time made many friends and established lasting bonds along the way.

After serving in the Navy during World War II, John Patrick attended the University of Wisconsin on the GI Bill and earned his degree. He joined the Capital Times in 1951 and that is where he stayed until his retirement in 1995.

John Patrick will forever be remembered for his work during the turbulent McCarthy era. Many were silenced by McCarthyism but John Patrick took action. For his July 4 assignment in 1951, John Patrick asked people to sign a petition he had put together using only the Declaration of Independence and the Bill of Rights. One hundred twelve refused out of fear of what might happen to them, 20 called John Patrick a communist, and only one signed. After the story broke nationally, President Harry Truman heralded John Patrick's efforts.

And as far as my own personal good fortune in knowing John Patrick, he asked me tough question for over 20 years. When I would give him a feisty answer, he would grin and I always felt buoyed by the unofficial but potent encouragement of Wisconsin's glorious progressive legacy.

My condolences go out to John Patrick's wife Merry and his entire family. His unparalleled contributions to Wisconsin journalism will never be forgotten.●

TRIBUTE TO MASTER SERGEANT DENNIS TAKESHITA

● Mr. AKAKA. Mr. President, I rise today to honor the service of Master Sergeant Dennis Takeshita, a member of the Hawaii Air National Guard. After 37 years of exemplary commitment and dedicated service in defense of our great Nation and 30 years in the Air National Guard, Master Sergeant Takeshita retired on October 3, 2003.

Master Sergeant Takeshita's career experiences have been extensive. He received a commission into the Air Force Reserves in 1966 and served on active duty until 1972. Soon after his honorable discharge from the United States Air Force, Master Sergeant Takeshita joined the Hawaii Air National Guard. He is a decorated soldier who has received numerous citations and awards for his outstanding service and professionalism.

A graduate of St. Louis High School in Honolulu and the University of Hawaii, Master Sergeant Takeshita's career has been one of dedication, service and sacrifice. He served a combat tour of duty during the Vietnam conflict from 1968 to 1969, as well as Operations Allied Force, Noble Eagle, and Enduring Freedom.

Master Sergeant Takeshita is to be commended for his long tenure, unwavering patriotism, courageous service, unselfish leadership, and individual contributions to the defense of the United States. I applaud the distinguished career of Master Sergeant Dennis Takeshita and express my best wishes for a well-deserved and enjoyable retirement.●

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

TRIBUTE TO BG EDWARD M. HARRINGTON, USA

● Mr. KENNEDY. Mr. President, today I pay tribute to BG Edward M. Harrington, upon his retirement from the United States Army after more than three decades of distinguished service to our Nation.

Ed Harrington's military career can truly be described as an American success story. A son of Massachusetts, he grew up in the coastal town of Marshfield, where his family's roots extend back three generations. After graduating from Marshfield High School, he attended Northeastern University in Boston, earning a degree in Business Administration. Before the ink was dry on his diploma, Ed received his draft notice and soon donned the battle dress of an infantryman. It wasn't long until his superior recognized his leadership potential, and he was selected for Officer Candidate School. This marked the beginning of what turned out to be an exemplary career as an officer who rose to the pinnacle of the complex world of acquisition management.

As a lieutenant in the Quartermaster Corps, he received orders for Vietnam where he was assigned to the First Cavalry Division. After service in Vietnam, he returned stateside and assumed command of the 259th Field Service Company at Fort Bragg. Then, with family in tow, he headed for Germany, serving in various Signal Command positions.

After being promoted to captain, Ed returned to Massachusetts to become a professor of military science at Worcester Polytechnic Institute and Fitchburg State College.

In the mid-1980s, Ed's expertise in defense acquisition management prompted his selection for the challenging position of production manager for the M1A1 Abrams Tank at the Tank-Automotive and Armaments Command in Warren, Michigan. There, he met the technical challenge of upgrading the tank's armor plating improving survivability and personnel protection. Years later, he would return to that organization as the Deputy for System Acquisition, a position in which he exercised milestone decision authority for more than 200 Army programs, including the

Paladin artillery system and the High Mobility Multi-Purpose Wheeled Vehicle, better known as the HUMVEE.

Following high-level logistics assignments overseas and stateside, he assumed the first of three command assignments that would culminate in his selection for flag officer and his ascension to the top of the Defense Contract Management Agency.

In the mid-1990s, as commander of the defense contract management office in Syracuse, he oversaw the performance of contracts associated with a number of large systems, including the Seawolf Submarine, the C–17 aircraft, and the Javelin anti-tank missile system. A few years later, Ed returned to his home State, serving as the director of Defense Contract Management Command's eastern district headquartered in Boston. There, with a dispersed workforce of 6,000 and more than 20 field offices, he and his staff managed nearly all the defense contracts performed in the eastern United States.

Since assuming leadership of the Defense Contract Management Agency, DCMA, in February 2001, Brigadier General Harrington has refashioned and expanded DoD's acquisition-management mission, and in so doing, has affirmed DCMA's standing as one of DoD's premiere combat support agencies. Today, DCMA carries out its responsibilities around the globe at sites as diverse as a circuit board manufacturer in Silicon Valley to a combat theater in the Middle East.

Ed Harrington's compassion and distinct style of leadership were dramatically brought to the fore following the tragic events of September 11, 2001, in which one of his DCMA colleagues, Herb Homer of Milford, MA, perished while on official travel aboard United Airlines Flight 175 that crashed into the south tower of the World Trade Center. With compassion and grace, Ed went above and beyond his duty to comfort and console the Homer family, and assist Herb's widow, Karen, in dealing with the administrative complexities following the death of her husband. Thanks to the efforts of Ed Harrington, the memory of Herb Homer and the recognition of his sacrifice will long endure as an inspiration to thousands throughout the DoD acquisition community.

Whether he was on a muddy ridge as an infantryman, at the front of a college lecture hall, on a contractor's plant floor, or at the side of a grieving family, BG Edward M. Harrington served his country with valor, loyalty, and integrity. On the occasion of his retirement from the United States Army, I offer thanks and congratulations to one of New England's finest, and wish him and his wife, Jane, well in their future pursuits.●

RECOGNIZING RUSSELL C. SCHOOLS

● Mr. ALLEN. Mr. President, I am very pleased today to recognize Russell C. Schools of Capron, VA, upon his retirement this year from the Virginia Peanut Growers Association.

Throughout his long career as a peanut farmer, Russell C. Schools has made numerous contributions to his field of work, dedicating his time and efforts to improve and promote the peanut industry, specifically in Virginia. Perhaps his most impressive achievement was the 34 years he spent as the executive secretary of the Virginia Peanut Association. Recently, Mr. Schools was inducted into the American Peanut Council's Peanut Hall of Fame, a fitting tribute to his outstanding career in the peanut industry.

Mr. President, I commend Russell C. Schools for the hard work and dedication that he has demonstrated throughout his distinguished career. He is a great Virginian and a great American and I wish him well in his retirement.●

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

TRIBUTE TO JULIE ELLIS LEMOULT

● Ms. MIKULSKI. Mr. President, I rise to pay tribute to the life and legacy of Julie Ellis LeMoult, an extraordinary young woman from Bethesda, MD.

This past spring, Julie Ellis LeMoult, loyal, compassionate, understanding and forgiving friend passed away far too early at the age of 28. Her death has dimmed the light of all who knew her: her husband, Chris LeMoult; her parents, Bruce and Donna Ellis; her sisters, Sheri DeLorenzo, Andrea Lynch and Christiane Ellis, and her many, many friends in Bethesda and all across the country.

Julie is irreplaceable. She dedicated her short life to maintaining and exalting humankind by paying tribute to each person's individual gifts. Above all, Julie was always selfless and strived to draw on and draw out the best in everyone she met.

The third of four children and the daughter of an entrepreneur who catered to kings, queens, presidents, diplomats, charitable causes and private social functions, Julie was raised in Bethesda, MD and attend Georgetown Visitation Preparatory School.

In December 1996, Julie graduated from Ohio Wesleyan University where she received a business degree in 3½ years while playing lacrosse. She excelled in her academics through fortitude and perseverance, overcoming a childhood struggle with dyslexia. Her self-esteem remained intact because of her athletic abilities, providing her swimming, diving, basketball, softball and lacrosse teams with the highest excellence of leadership and sportsmanship. Julie's stride and form as a runner exhibited her most memorable style of athletic grace.

In 1997, Julie worked for Hambrecht and Quist in San Francisco before returning to Maryland to join Discovery Communications where she was an invaluable member of its corporate affairs and communications department.

As an adult, Julie became a knowledgeable resource for many people experiencing panic and anxiety disorders and was able to recommend The Ross Center of Washington, DC, and the Midwest Center for Anxiety, Stress and Depression to those who sought her counsel.

Julie Katherine Ellis married Christopher M. LeMoult of Cape Code, MA, in September 2001. She delivered their baby boy, Logan Donnelly, in April 2003. Her life as a mother allowed her to be with her son for only 8 hours before unknown complications took her life.

In addition to her beautiful smile and peaceful nature, Julie's greatest legacies are her son Logan and her ability to open up her heart unconditionally to family, friends, acquaintances and strangers alike in the hope of making their lives better while expecting nothing in return.

The sorrow over Julie's loss is accompanied by the abundance of joy that exists in the memories her family and friends share, her life that they celebrate and her love that will live on. At Thanksgiving and always, Julie's parents, sisters, husband, son, family, friends and colleagues are grateful for the brilliance of her life. Julie Ellis LeMoult will never be forgotten.●

CONTRATULATIONS TO JUDITH SPOONER

● Mr. BUNNING. Mr. President, I pay tribute and congratulate Judith Spooner of Louisville, KY on her reception of the Adoption Excellence Award given to her by the United States Department of Health and Human Services.

Ms. Spooner has dedicated her life to helping improve and increase adoptions and foster families in Kentucky. Her devotion to this cause was put to great work during her time at the Kentucky Cabinet for Families and Children. She has done a wonderful public service through her innovative efforts to increase the number of adoptive families in Kentucky. She has also been instrumental in setting up area support groups for foster and adoptive parents. Although she retired in March of 2003, we are all very lucky that she will continue to spend some of her time with AdoptUSKids, a nonprofit group that helps match waiting children with adoptive families.

The citizens of Kentucky are fortunate to have the leadership of Judith Spooner. Her example of dedication, hard work and compassion should be an inspiration to all throughout the Commonwealth.

She has my most sincere appreciation for this work and I look forward to her continued service to Kentucky.●

RECOGNIZING THE HONORABLE ALFRED C. ANDERSON

● Mr. ALLEN. Mr. President, today I recognize Alfred C. Anderson, who ends 28 years of service as the treasurer for Roanoke County in January 2004.

Mr. Anderson is the longest serving treasurer in the history of Roanoke County, first being elected in 1971. He served until 1975 and then resumed the elected post in 1979. He has been Roanoke County's treasurer ever since.

As treasurer, Mr. Anderson helped modernize the office, allowing for online payments and computer record keeping. He has distinguished himself and his office, becoming the president of the Treasurer's Association of Virginia in 1986 President of the National Association of County Treasurers and Finance Officers and receiving the award for National Treasurer of the Year in 1996, County Republican Official of the Year in 1998 and the Commonwealth's Award in 1997.

Mr. Anderson is a community leader, serving as past chairman of the Roanoke United Methodist Church, past president of the Dogwood Festival and Vinton Lions Club. He currently serves as Chairman of the 6th District Republican party and as a board member on the Blue Ridge Education and Training Council.

Alfred Anderson is a graduate of East Tennessee State University. He and his wife Ann live in Vinton, VA and have two children.

Mr. Anderson has left an indelible mark on his office and his community. I congratulate him and wish him well on his retirement.●

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

TRIBUTE TO INTERNS

● Mr. HARKIN. Mr. President, today I extend my appreciation to my fall 2003 class of interns: Dennis O'Connor, Melissa Hall, Jason Eaton, Theresa Fruher, and Natalie Dupcher. Each of them has been a tremendous help to me and to the people of Iowa over the past several months. Their efforts have not gone unnoticed.

Since I was first elected into the Senate in 1984, my office has offered internships each fall to young Iowans and other interested students. Through their work in the Senate, our interns have not only seen the legislative process at work, but they also have personally contributed to our Nation's democracy.

It is with much appreciation that I recognize Dennis, Melissa, Jason, Theresa, and Natalie for their hard work this fall. It has been a delight to watch them take on their assignments with enthusiasm and hard work. I am very proud to have worked with each of them. I hope they take from their fall a sense of pride in what they have been able to accomplish and an increased interest in public service and our democratic system and process.●

RECOGNIZING PATRICIA BUCKLEY MOSS

● Mr. ALLEN. Mr. President, today I recognize Patricia Buckley Moss for her outstanding contributions to the advancement of art and education in the Commonwealth of Virginia.

Ms. Moss was born and raised in New York City, where she attended the Washington Irving High School for the Fine Arts. After developing her artistic talents in high school, Ms. Moss received a scholarship to the prestigious Cooper Union for the Advancement of Science and Art in New York. While at Cooper Union, she studied fine arts and graphic design for 4 years.

In 1964, Ms. Moss and her family relocated to Waynesboro, VA. Living in the stunning Shenandoah Valley gave Ms. Moss the opportunity to experience and appreciate the natural beauty of the outdoors, which has played a prominent role in her art ever since. Over the past 40 years, she has created a unique style that is well known by collectors across the globe. Her artistic work eventually led to the creation of the P. Buckley Moss Museum, which opened in Waynesboro, VA, in 1989. This well-known museum in the Shenandoah Valley was created to ''permanently record and illuminate the Moss phenomenon through educational exhibitions, lectures, permanent collections and archival files.''

During her illustrious artistic career, Ms. Moss has exhibited tremendous dedication to many charitable endeavors. In particular, she has remained committed to various children's charities, with a primary focus on special education programs. In 1986, the P. Buckley Moss Society was created by a group of her most dedicated collectors to facilitate the management of her various charitable activities. This society has grown to over 20,000 members worldwide and uses fundraisers to provide for charitable projects. Among its projects in 1995, the Society created the P. Buckley Moss Foundation for Children's Education; the mission of this educational foundation is to ''promote the integration of the arts into all educational programs, with a special focus on programs for children who learn differently.''

Patricia Buckley Moss is an excellent role model for aspiring young artists throughout our country. She has left an indelible mark on her community not only through her art, but also through her charitable work, which has touched the lives of so many, specifically those who are learning impaired. I commend her for her service and wish her continued success in her life.●

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

CONGRATULATING AG PRODUCER OF THE YEAR KIRK CORDES

● Mr. JOHNSON. Mr. President, I wish to publicly congratulate Kirk Cordes of Rapid City, SD, for receiving the Ag Producer of the Year award at the Rapid City Area Chamber of Commerce Ag Appreciation banquet.

The Ag Producer of the Year is awarded to one recipient a year who distinguishes themselves in the Agricultural Business Community in South Dakota. The award has been given out since 2001. The award goes to a person who uses the most recent and innovative technology to further advance the agriculture industry for the better.

Kirk Cordes understands the word perseverance. Mr. Cordes was raised on a ranch outside of Elm Springs, SD, where he attended elementary school in a one room school house. After graduating from South Dakota State University in 1970 with a degree in agriculture/business, he worked hard and saved his income. In 1973, the hard work and determination paid off. He bought his mother and father in-law's 6,800 acre ranch, and he and his family have owned and operated the ranch ever since.

Kirk Cordes has been recognized numerous times for his devotion to the agricultural industry in South Dakota. Among his numerous awards, he is a member of various organizations and serves on many boards. He is a past director of the Pennington County Soil Conservation District. He has also been a past director, vice president and State president of the South Dakota section for range management and recipient of Rangeman of the year for South Dakota in 1983. He is a current member of the South Dakota Cattlemen's Association, the National Cattlemen's Beef Association, the Rapid City Area Chamber Ag Committee and the Western South Dakota Buckaroos. For the past 10 years, he has been president of the West River/Lyman Jones Rural Water Systems, which is part of the Mni Wiconi Water Project.

After 30 years of ranching, Kirk and his wife Kathy will be turning the ranch over to their son and daughter-in-law.

I am pleased that his agricultural leadership is being publicly recognized and that his achievements will serve as a model for all outstanding agricultural producers throughout the State to emulate. It is with great honor that I share his impressive achievements with my colleagues.●

RECOGNITION OF MARTIN FINKEL

● Mr. SPECTER. Mr. President, I wish to recognize Martin Finkel, a distinguished doctor and family friend. Dr. Finkel has practiced medicine for over 30 years on the Upper West Side of Manhattan.

Martin Finkel, M.D., F.A.C.P., P.C., a Diplomat of the American Board of Internal Medicine and Gastroenterology, was voted for inclusion in the October edition of the prestigious ''Guide to America's Top Physicians.''

In designating this distinction, the editors of the Guide noted that Dr.

Finkel was ''among the select few that have earned this prestigious recognition.'' I join them today in their salute to Dr. Martin Finkel.●

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

JAMES L. ''JAY'' JENKINS 1919–2003

● Mr. EDWARDS. Mr. President, I wish the honor to life of a remarkable North Carolinian.

Jay Jenkins was one of North Carolina's finest. He was a member of a large and distinguished family descended from 18th century Scottish missionaries, and he left his own mark on our State and the South. With his passing, we have lost a great humanitarian.

Jay's long career spanned his early years as a political reporter and later as a leader at the University of North Carolina.

Many in North Carolina believe he was the best political reporter the State has ever known. He was always the one with the scoop. He had the best contacts and knew how to work them. He was a mentor to many, including Charles Kuralt, whose own distinguished career took him to CBS News, David Cooper, retired editorial page editor of the Akron, OH, Beacon-Journal, James Batten, the late president of the Knight-Ridder Publishing Co., Joe Doster, retired publisher of the Winston-Salem Journal and Eugene Roberts, retired managing editor of The New York Times. His competitors admired him at the same time they were wondering how he always managed to get the story.

The qualities that made him such a good reporter were his straightforwardness and his integrity. He was concerned about writing what was really happening. He looked for pretension in politicians and avoided those personalities. His emphasis was the common man. He cared about North Carolina providing programs that truly met the needs of children.

Jay counted among his close friends former Senator Jesse Helms, whom he met when both were students in the late 1930s at what was then Wake Forest College. He also was a close friend to former Governor and Senator Terry Sanford.

His reporting also led to several journalism awards, including the National Sidney Hillman Award for investigative articles in the News & Observer exposing activities of the Klu Klux Klan in North Carolina. In 1991, Jay Jenkins was inducted into the North Carolina Journalism Hall of Fame.

Jay later joined UNC system President Bill Friday as a senior assistant. During his tenure with the university system, he expanded the concept of public relations to be more than just reporting about the students. Most importantly, he originated and founded the television news show, North Carolina People, hosted by President Friday. This show is still running and remains popular in North Carolina. He was also was highly respected in the legislature, where he represented the university with distinction.

''I remember him as the best of his generation,'' President Friday said of Jay. ''He was a man of real integrity, honesty and plain raw courage. His motivation was always what was best for North Carolina.''

Jay was an accomplished outdoorsman and athlete who played semiprofessional baseball. He was a devoted follower of the Atlanta Braves and his beloved Wake Forest Demon Deacons.

A veteran of World War II, Jay served our country with distinction in the Army Air Corps in the Pacific Theater for 30 months.

Jay was a true North Carolina treasure. We will miss him dearly.●

TRIBUTE TO CRAIG WILLIAMS

● Mr. BUNNING. Mr. President, I wish to pay tribute to Craig Williams, director of the Chemical Weapons Working Group, which is based in Berea, KY. On Thursday, December 11, Craig will receive the Public Interest Research Group's annual John O'Connor Citizen Achievement Award.

The O'Connor Award is presented annually to a dedicated advocate for a cleaner, better America. Craig Williams has dedicated his life to grassroots organizations safeguarding the environment and protecting Americans working and living near chemical weapons storage facilities. He rightly deserves this tremendous honor.

I have personally worked with Craig for years on protecting the local citizens and environment surrounding the Bluegrass Army Depot in central Kentucky. As the director of the Chemical Weapons Working Group, Craig was instrumental in ensuring the safest possible disposal of chemical weapons in Kentucky. Craig has been a tireless advocate against the incineration of these deadly weapons and has done a remarkable job educating and mobilizing the local communities surrounding these disposal sites across the country.

I congratulate Craig for receiving this honor, and I thank him for his tireless advocacy on behalf of a cleaner environment and protection of all those living and working near chemical weapons storage facilities. I look forward to working with Craig on future projects. I thank the Senate for allowing me to pay tribute to this dedicated Kentuckian.●

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, two treaties, and a withdrawal which were referred to the appropriate committees.

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

ANNUAL REPORT OF THE RAILROAD RETIREMENT BOARD FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2002—PM 58

The Presiding Officer laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Health, Education, Labor, and Pensions:

To the Congress of the United States:

I transmit herewith the Annual Report of the Railroad Retirement Board presented for forwarding to you for the fiscal year ending September 30, 2002, consistent with the provisions of section 7(b)(6) of the Railroad Retirement Act and section 12(1) of the Railroad Unemployment Insurance Act.

GEORGE W. BUSH.

THE WHITE HOUSE, *December 8, 2003*.

MESSAGE FROM THE HOUSE RECEIVED DURING RECESS

The Secretary of the Senate, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolution:

S. 459. An act to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits.

H.J. Res. 80. Joint resolution appointing the day for the convening of the second session of the One Hundred Eighth Congress.

H.R. 1. An act to amend title XVIII of the Social Security Act to provide for a voluntary program for prescription drug coverage under the Medicare Program, to modernize the Medicare Program, to amend the Internal Revenue Code of 1986 to allow a deduction to individuals for amounts contributed to health savings security accounts and health saving accounts, to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements, and for other purposes.

H.R. 1437. An act to improve the United States Code.

H.R. 1813. An act to amend the Torture Victims Relief Act of 1998 to authorize appropriations to provide assistance for domestic and foreign centers and programs for the treatment of victims of torture, and for other purposes.

H.R. 2297. An act to amend title 38, United States Code, to improve benefits under laws administered by the Secretary of Veterans Affairs, and for other purposes.

H.R. 2622. An act to amend the Fair Credit Reporting Act, to prevent identity theft, improve resolution of consumer disputes, improve the accuracy of consumer records, make improvements in the use of, and consumer access to, credit information, and for other purposes.

H.R. 3287. An act to award congressional gold medals posthumously on behalf of Reverend Joseph A. DeLaine, Harry and Eliza Briggs, and Levi Pearson in recognition of their contributions to the Nation as pioneers in the effort to desegregate public schools that led directly to the landmark desegregation case of Brown et al. v. the Board of Education of Topeka et al.

H.R. 3348. An act to reauthorize the ban on undetectable firearms.

Under the authority of the order of the Senate of November 25, 2003, on December 2, 2003, the enrolled bills and joint resolution were signed by the Acting President pro tempore (Mr. FRIST).

MESSAGES FROM THE HOUSE

At 10:05 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agreed to the amendment of the Senate to the amendment of the House to the bill (S. 877) to regulate interstate commerce by imposing limitations and penalties on the transmission of unsolicited commercial electronic mail via the Internet.

The message also announced that the House agreed to the amendment of the Senate to the amendment of the House to the bill (S. 1680) to reauthorize the Defense Production Act of 1950, and for other purposes.

The message further announced that the House agreed to the amendment of the Senate to the bill (H.R. 100) to restate, clarify, and revise the Soldiers' and Sailors' Civil Relief Act of 1940.

The message also announced that the House agreed to the amendments of the Senate to the bill (H.R. 622) to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes.

The message further announced that the House agreed to the amendments of the Senate to the bill (H.R. 1006) to amend the Lacey Act Amendments of 1981 further the conservation of certain wildlife species.

The message also announced that the House agreed to the amendment of the Senate to the bill (H.R. 1012) to establish the Carter G. Woodson Home National Historic Site in the District of Columbia, and for other purposes.

The message further announced that the House agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2673) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004, and for other purposes.

The message also announced that pursuant to section 7(b)(1) of the Prison Rape Elimination Act of 2003 (Public Law 108–79), the Minority Leader appoints the following individuals on the part of the House of Representatives to the National Prison Rape Reduction Commission: Ms. Brenda V. Smith of the District of Columbia and Ms. Jamie Fellner, Esq., of New York.

At 11:04 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 811. An act to support certain housing proposals in the fiscal year 2003 budget for the Federal Government, including the downpayment assistance initiative under the HOME Investment Partnership Act, and for other purposes.

S. 1683. An act to provide for a report on the parity of pay and benefits among Federal law enforcement officers and to establish an exchange program between Federal law enforcement employees and State and local law enforcement employees.

S. 1929. An act to amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to extend the mental health benefits parity provisions for an additional year.

S. 1947. An act to prohibit the offer of credit by a financial institution to a financial institution examiner, and for other purposes.

The message also announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 3652. An act to amend the Internal Revenue Code of 1986 to modify the taxation of imported archery products.

H.J. Res. 82. Joint resolution making further continuing appropriations for the fiscal year 2004, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate.

H. Con. Res. 345. Concurrent resolution authorizing the printing as a House document of the transcripts of the proceedings of ''The Changing Nature of the House Speakership: The Cannon Centenary Conference,'' sponsored by the Congressional Research Service on November 12, 2003.

MEASURES REFERRED

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

H.R. 7. An act to amend the Internal Revenue Code of 1986 to provide incentives for charitable contributions by individuals and business, and for other purposes; to the Committee on Finance.

H.R. 153. An act to restore the second amendment rights of all Americans; to the Committee on Energy and Natural Resources.

H.R. 253. An act to amend the National Flood Insurance Act of 1968 to reduce losses to properties for which repetitive flood insurance claim payments have been made; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 408. An act to provide for expansion of Sleeping Bear Dunes National Lakeshore; to the Committee on Energy and Natural Resources.

H.R. 1964. To assist the States of Connecticut, New Jersey, New York, and Pennsylvania in conserving priority lands and natural resources in the Highlands region, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2218. To amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 2584. To provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2898. An act to improve homeland security, public safety, and citizen activated emergency response capabilities through the use of enhanced 911 wireless services, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2907. An act to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership; to the Committee on Energy and Natural Resources.

H.R. 3108. An act to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; to the Committee on Finance.

H.R. 3181. An act to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program, and for other purposes; to the Committee on Environment and Public Works.

H.R. 3214. An act to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes; to the Committee on the Judiciary.

H.R. 3521. An act to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; to the Committee on Finance.

H.R. 3652. An act to amend the Internal Revenue Code of 1986 to modify the taxation of imported archery products; to the Committee on Finance.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 206. Concurrent resolution supporting the National Marrow Donor Program and other bone marrow donor programs and encouraging Americans to learn about the importance of bone marrow donation; to the Committee on Health, Education, Labor, and Pensions.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on December 3, 2003, she had presented to the President of the United States the following enrolled bill:

S. 459. An act to ensure that a public safety officer who suffers a fatal heart attack or stroke while on duty shall be presumed to have died in the line of duty for purposes of public safety officer survivor benefits.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs:

Report to accompany S. 1522, a bill to provide new human capital flexibility with respect to the GAO, and for other purposes (Rept. No. 108-216).

Report to accompany S. 1612, a bill to establish a technology, equipment, and information transfer within the Department of Homeland Security (Rept. No. 108–217).

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments and an amendment to the title:

S. 156. A bill to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions (Rept. No. 108–218).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1401. A bill to reauthorize the National Oceanic and Atmospheric Administration, and for other purposes (Rept. No. 108–219).

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, without amendment:

S. 1879. A bill to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards (Rept. No. 108–220).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted on November 21, 2003:

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

Air Force nomination of Mary J. Quinn.

Air Force nominations beginning Christopher C. Erickson and ending Mark A. Mcclain, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2003.

Army nomination of Lance A. Betros.

Army nominations beginning Thomas B. Sweeney and ending Paul L. Zanglin, which nominations were received by the Senate and appeared in the Congressional Record on October 30, 2003.

Army nominations beginning John D. Mcgowan II and ending Kenneth E. Nettles, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2003.

Army nominations beginning Vernal G. Anderson and ending Donald J. Kerr, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2003.

Army nominations beginning Gaston P. Bathalon and ending Paula J. Rutan, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2003.

Army nomination of William B. Carr, Jr.

Army nominations beginning John E. Atwood and ending William E. Zoesch, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2003.

Army nominations beginning Cheryl Kyle and ending Terry C. Washam, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2003.

Army nomination beginning Michael A. Buley and ending Gary M. Zaucha, which nominations were received by the Senate and appeared in the Congressional Record on November 17, 2003.

Army nomination of Gary R. McMeen.

Marine Corps nomination of Michael S. Nisley.

Marine Corps nominations beginning Leonard Halik III and ending Ernest R. Hines, which nominations were received by the Senate and appeared in the Congressional Record on February 1, 2003.

Marine Corps nomination of David B. Morey.

Navy nomination of Patrick J. Moran.

Navy nomination of Lawrence J. Chick.

Navy nomination of Robert E. Vincent II.

Navy nominations beginning Rodney A Bolling and ending Jay S Vignola, which nominations were received by the Senate and appeared in the Congressional Record on November 3, 2003.

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

*Thomas J. Curry, of Massachusetts, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of six years.

*Alicia R. Castaneda, of the District of Columbia, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2004.

*Alicia R. Castaneda, of the District of Columbia, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2011.

By Mr. GRASSLEY for the Committee on Finance.

*Arnold I. Havens, of Virginia, to be General Counsel for the Department of the Treasury.

By Ms. COLLINS for the Committee on Governmental Affairs.

*James M. Loy, of Virginia, to be Deputy Secretary of Homeland Security.

*Scott J. Bloch, of Kansas, to be Special Counsel, Office of Special Counsel, for the term of five years.

By Mr. SPECTER for the Committee on Veterans' Affairs. Alan G. Lance, Sr., of Idaho, to be a Judge of the United States Court of Appeals for Veterans Claims for the term prescribed by law.

Lawrence B. Hagel, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims for the term prescribed by law.

*Cynthia R. Church, of Virginia, to be an Assistant Secretary of Veterans Affairs (Public and Intergovernmental Affairs).

*Robert N. McFarland, of Texas, to be an Assistant Secretary of Veterans Affairs (Information and Technology).

*Gordon H. Mansfield, of Virginia, to be Deputy Secretary of Veterans Affairs.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

David C. Mulford, of Illinois, to be Ambassador Extraordinary and Plenipoltentiary of the United States of America to India.

James C. Oberwetter, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

The Senate Committee on Banking, Housing, and Urban Affairs was discharged from further consideration of the following nominations and the nominations were confirmed:

Joseph Max Cleland, of Georgia, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007.

April H. Foley, of New York, to be First Vice President of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 2005.

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. GRAHAM of Florida:

S. 1980. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

By Mr. SANTORUM:

S. 1981. A bill to amend the Constitution Heritage Act of 1988 to provide for the operation of the National Constitution Center; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER (for himself, Mr. HATCH, and Mr. DURBIN):

S. 1982. A bill to establish within the United States Marshalls Service a short term State witness protection program to provide assistance to State and local district attorneys to protect their witnesses in homicide and major violent crimes cases and to provide Federal grants for such protection; to the Committee on the Judiciary.

By Mr. SCHUMER (for himself, Mr. REED, Mrs. CLINTON, Mrs. FEINSTEIN, and Mr. DURBIN):

S. 1983. A bill to amend title 18 of the United States Code, to enhance the authority of the Bureau of Alcohol, Tobacco, Firearms, and Explosives to enforce the compliance of gun dealers with Federal firearms laws, and for other purposes; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 1984. A bill to amend the Internal Revenue Code of 1986 to make technical corrections, and for other purposes; to the Committee on Finance.

By Mrs. FEINSTEIN:

S. 1985. A bill for relief of Benjamin Cabrera-Gomez and Londy Patricia; to the Committee on the Judiciary.

By Mrs. CLINTON:

S. 1986. A bill to amend the help America Vote Act of 2002 to require voter verification and improved security for voting systems under title III of the Act, and for other purposes; to the Committee on Rules and Administration.

By Mr. LUGAR:

S. 1987. A bill to implement the obligations of the United States under the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, known as ''the Additional Protocol'' signed by the United States on June 12, 1998; to the Committee on Foreign Relations.

By Mr. DASCHLE (for Mr. EDWARDS):

S. 1988. A bill to amend titles XVIII and XIX of the Social Security Act to establish

minimum requirements for nurse staffing in nursing facilities receiving payments under the Medicare or Medicaid Program; to the Committee on Finance.

By Mr. DAYTON:

S. 1989. A bill to provide that, for purposes of making determinations for certain trade remedies and trade adjustment assistance, imported semi-finished steel slabs and taconite pellets produced in the United States shall be considered to be articles like or directly competitive with each other; to the Committee on Finance.

By Mr. DAYTON:

S. 1990. A bill to authorize the Economic Development Administration to make grants to producers of taconite for implementation of new technologies to increase productivity, to reduce costs, and to improve overall product quality and performance; to the Committee on Environment and Public Works.

By Mr. DASCHLE (for Mr. KERRY (for himself and Mr. KENNEDY)):

S. 1991. A bill to require the reimbursement of members of the Armed Forces or their family members for the costs of protective body armor purchased by or on behalf of members of the Armed Forces; to the Committee on Armed Services.

By Mr. KENNEDY:

S. 1992. A bill to amend the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to eliminate privatization of the medicare program, to improve the medicare prescription drug benefit, to repeal health savings accounts, and for other purposes; to the Committee on Finance.

By Mr. WARNER (for himself and Mrs. CLINTON):

S. 1993. A bill to amend title 23, United States Code, to provide a highway safety improvement program that includes incentives to States to enact primary safety belt laws; to the Committee on Environment and Public Works.

By Mr. DASCHLE (for Mr. FEINGOLD):

S. 1994. A bill to amend part D of title XVIII of the Social Security Act to strike the language that prohibits the Secretary of Health and Human Services from negotiating prices for prescription drugs furnished under the medicare program; to the Committee on Finance.

By Mr. DASCHLE (for Mr. FEINGOLD):

S. 1995. A bill to amend title XVIII of the Social Security Act to repeal the MA Regional Plan Stabilization Fund; to the Committee on Finance.

By Mr. DASCHLE:

S. 1996. A bill to enhance and provide to the Oglada Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program; to the Committee on Indian Affairs.

By Mr. BYRD (for himself, Mr. BAYH, and Mr. ROCKEFELLER):

S. 1997. A bill to reinstate the safeguard measures imposed on imports of certain steel products, as in effect on December 4, 2003; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. SCHUMER, Mr. LEAHY, Mrs. CLINTON, Mr. NELSON of Nebraska, Mrs. LINCOLN, Mr. HAGEL, Mr. JEFFORDS, Mr. DOMENICI, Mr. HARKIN, and Mr. PRYOR):

S. 1998. A bill to amend title 49, United States Code, to preserve the essential air service program; to the Committee on Commerce, Science, and Transportation.

By Mr. DASCHLE (for himself, Ms. STABENOW, Mr. GRAHAM of Florida, Mr. KENNEDY, Mr. PRYOR, Mr. DORGAN, Mrs. BOXER, Mr. LAUTENBERG, Mr. BINGAMAN, Ms. MIKULSKI, Mr. JOHNSON, Mr. SCHUMER, Mr. KOHL, Ms. CANTWELL, and Mr. ROCKEFELLER):

S. 1999. A bill to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for medicare prescription drugs; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself and Mrs. HUTCHISON):

S. 2000. A bill to extend the special postage stamp for breast cancer research for 2 years; considered and passed.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 2001. A bill to authorize an additional permanent judgeship for the district of Hawaii, and for other purposes; to the Committee on the Judiciary.

By Mr. BAUCUS (for himself and Mr. CRAIG):

S. 2002. A bill to improve and promote compliance with international intellectual property obligations relating to the Republic of Cuba, and for other purposes; to the Committee on the Judiciary.

By Mrs. CLINTON:

S. 2003. A bill to amend the Public Health Service Act to promote higher quality health care and better health by strengthening health information, information infrastructure, and the use of health information by providers and patients; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. FEINGOLD):

S. 2004. A bill to permanently reenact chapter 12 of title 11, United States Code, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. COLEMAN:

S. Res. 279. A resolution recognizing the importance and contributions of sportsmen to American society, supporting the traditions and values of sportsmen, and recognizing the many economic benefits associated with outdoor sporting activities; to the Committee on Environment and Public Works.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. Res. 280. A resolution congratulating the San Jose Earthquakes for winning the 2003 Major League Soccer Cup; considered and agreed to.

By Mr. FITZGERALD (for himself, Mr. DURBIN, Mr. FRIST, Mr. DASCHLE, and Mr. DEWINE):

S. Res. 281. A resolution relative to the death of the Honorable Paul Simon, a former Senator from the State of Illinois; considered and agreed to.

By Mr. STEVENS:

S. Res. 282. A resolution providing the funding to assist in meeting the official expenses of a preliminary meeting relative to the formation of a United States Senate-China interparliamentary group; considered and agreed to.

By Mr. SESSIONS (for himself, Mr. SHELBY, Mr. INHOFE, Mr. BROWNBACK, Mr. NICKLES, Mr. BUNNING, Mr. TALENT, Mr. CHAMBLISS, Mr. CRAIG, Mr. DOMENICI, Mr. KYL, and Mr. HOLLINGS):

S. Res. 283. A resolution affirming the need to protect children in the United States from indecent programming; considered and agreed to.

ADDITIONAL COSPONSORS

S. 59

At the request of Mr. INOUYE, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 59, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 344

At the request of Mr. AKAKA, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 344, a bill expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes.

S. 480

At the request of Mr. HARKIN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 480, a bill to provide competitive grants for training court reporters and closed captioners to meet requirements for realtime writers under the Telecommunications Act of 1996, and for other purposes.

S. 491

At the request of Mr. REID, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 533

At the request of Mr. SCHUMER, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. MILLER), the Senator from Arkansas (Mr. PRYOR), the Senator from Nevada (Mr. REID) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. 533, a bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representative of those individuals killed as a result of the terrorist attacks of September 11, 2001.

S. 736

At the request of Mr. ENSIGN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 736, a bill to amend the Animal Welfare Act to strengthen enforcement of provisions relating to animal fighting, and for other purposes.

S. 976

At the request of Mr. WARNER, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 985

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

985, a bill to amend the Federal Law Enforcement Pay Reform Act of 1990 to adjust the percentage differentials payable to Federal law enforcement officers in certain high-cost areas, and for other purposes.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1032

At the request of Mr. SARBANES, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1032, a bill to provide for alternative transportation in certain federally owned or managed areas that are open to the general public.

S. 1034

At the request of Mrs. FEINSTEIN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1034, a bill to repeal the sunset date on the assault weapons ban, to ban the importation of large capacity ammunition feeding devices, and for other purposes.

S. 1040

At the request of Mr. SHELBY, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1040, a bill to repeal the current Internal Revenue Code and replace it with a flat tax, thereby guaranteeing economic growth and greater fairness for all Americans.

S. 1091

At the request of Mr. DURBIN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1091, a bill to provide funding for student loan repayment for public attorneys.

S. 1177

At the request of Mr. KOHL, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1177, a bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

S. 1252

At the request of Mr. DAYTON, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1252, a bill to provide benefits to domestic partners of Federal employees.

S. 1431

At the request of Mr. LAUTENBERG, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1431, a bill to reauthorize the assault weapons ban, and for other purposes.

S. 1568

At the request of Mr. HATCH, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Florida (Mr. GRAHAM) were added as cosponsors of S. 1568, a bill to amend the Internal Revenue Code of 1986 to simplify certain provisions applicable to real estate investment trusts.

S. 1645

At the request of Mr. CRAIG, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1679

At the request of Mr. BUNNING, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1679, a bill to amend the Internal Revenue Code of 1986 to reduce the depreciation recovery period for roof systems.

S. 1700

At the request of Mr. LEAHY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

S. 1702

At the request of Mr. SMITH, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1702, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1736

At the request of Mr. ENZI, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1736, a bill to promote simplification and fairness in the administration and collection of sales and use taxes.

S. 1748

At the request of Mr. DEWINE, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1748, a bill to establish a program to award grants to improve and maintain sites honoring Presidents of the United States.

S. 1786

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 1786, a bill to revise and extend the Community Services Block Grant Act, the Low-Income Home Energy Assistance Act of 1981, and the Assets for Independence Act.

S. 1801

At the request of Mrs. MURRAY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1801, a bill to promote the economic security and safety of victims of domestic and sexual violence, and for other purposes.

S. 1807

At the request of Mr. MCCAIN, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1807, a bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and for other purposes.

S. 1830

At the request of Mr. BROWNBACK, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1830, a bill to authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, and for other purposes.

S. 1882

At the request of Mr. LAUTENBERG, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1882, a bill to require that certain notifications occur whenever a query to the National Instant Criminal Background Check System reveals that a person listed in the Violent Gang and Terrorist Organization File is attempting to purchase a firearm, and for other purposes.

S. 1907

At the request of Mr. DASCHLE, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1907, a bill to promote rural safety and improve rural law enforcement.

S. 1925

At the request of Mr. KENNEDY, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Washington (Ms. CANTWELL) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 1925, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

S. 1928

At the request of Mr. SARBANES, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 1928, a bill to amend the Truth in Lending Act to protect consumers against predatory practices in connection with high cost mortgage transactions, to strengthen the civil remedies available to consumers under existing law, and for other purposes.

S. 1937

At the request of Mr. BAUCUS, the names of the Senator from Louisiana

(Mr. BREAUX), the Senator from Massachusetts (Mr. KERRY) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1937, a bill to amend the Internal Revenue Code of 1986 to curtail the use of tax shelters, and for other purposes.

S. 1973

At the request of Mr. DEWINE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1973, a bill to amend the Communications Act of 1934 to protect the privacy rights of subscribers to wireless communications services.

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1973, supra.

S. 1974

At the request of Mr. DASCHLE, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1974, a bill to make improvements to the Medicare Prescriptions Drug, Improvement, and Modernization Act of 2003.

S. 1979

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 1979, a bill to amend the Internal Revenue Code of 1986 to prevent the fraudulent avoidance of fuel taxes.

S.J. RES. 26

At the request of Mr. ALLARD, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S.J. Res. 26, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

S. CON. RES. 81

At the request of Mrs. FEINSTEIN, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. Con. Res. 81, a concurrent resolution expressing the deep concern of Congress regarding the failure of the Islamic Republic of Iran to adhere to its obligations under a safeguards agreement with the International Atomic Energy Agency and the engagement by Iran in activities that appear to be designed to develop nuclear weapons.

S. RES. 54

At the request of Mr. MCCAIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 54, a resolution to provide Internet access to certain Congressional documents, including certain Congressional Research Service publications, certain Senate gift reports, and Senate and Joint Committee documents.

S. RES. 202

At the request of Mr. CAMPBELL, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. Res. 202, a resolution expressing the sense of the Senate regarding the genocidal Ukraine Famine of 1932–33.

S. RES. 276

At the request of Mrs. FEINSTEIN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. Res. 276, a resolution expressing the sense of the Senate regarding fighting terror and embracing efforts to achieve Israeli-Palestinian peace.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRAHAM of Florida:

S. 1980. A bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes; to the Committee on Rules and Administration.

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

● Mr. GRAHAM of Florida. Mr. President, today I rise to introduce the Voter Confidence and Increased Accessibility Act.

In 2000, Florida grabbed the national spotlight as an unfortunate example of an electoral process gone awry. The question of who would assume our Nation's highest office became contingent on such things as whether a chad was bulging or hanging. In the aftermath of that debacle, Americans demand that Congress improve the accuracy and integrity of our electoral process. Congress responded with the Help America Vote Act (HAVA), which we passed in 2002.

HAVA aimed to modernize our electoral system and there have been some positive developments. Under the law, States have replaced punch card and lever voting systems with modern computer voting machines. Modernization, however, has failed to overcome all the pitfalls seen in recent elections. In 2002, Floridians were subject to another failure of our electoral process when a software error failed to court approximately 100,000 votes.

As it now stands, computer-voting systems—including the popular touch screen models—are not mandated to include a paper record verifying voter intent. In the absence of a paper trail, confirming the accuracy of a computer voting machine is very difficult, sometimes even impossible. Further, voting irregularities, security intrusions and electronic errors can go unnoticed. We have a duty to our democracy to continue to address challenges that threaten to undermine the security and reliability of our electoral system.

The Voter Confidence & Increased Accessibility Act renews our commitment to fulfilling that obligation. It will take us one step closer to our ultimate goal: ensuring that every vote really counts. This legislation responds to a set of challenges presented by computer voting systems. It would require all voting systems produce a verifiable paper record. States would also be given assistance in meeting this standard through funds dedicated to HAVA.

The Voter Confidence & Increased Accessibility Act also stipulates several other provisions to ensure that every vote really counts. It would prohibit the use of unreported software and wireless communication devices in all voting systems. It would also restrict electronic communications from voting machines, permitting outgoing transmissions of vote totals only.

The legislation specifies that voting systems must comply with these standards in time for the November 2004 general election. In the event that a locality is unable to get their computer voting systems compliant by this deadline, they are authorized to use a paper system as an interim measure. The Federal Government would be authorized to pay the cost of these paper systems for the November 2004 election.

The Voter Confidence & Increased Accessibility Act also requires that individuals with disabilities must be accommodated with electronic voting systems by January 1, 2006, a year earlier than mandated by HAVA. While a paper record of a disabled persons vote is not expressly required, voting systems for disabled persons must include a means for voter verification. In the event a jurisdiction cannot meet this standard, disabled voters must be given the option to utilize a temporary paper system, with the assistance of an aide of their choosing.

Finally, the legislation would require the Election Assistance Commission to conduct unannounced recounts in .5 percent of domestic jurisdictions and .5 percent of overseas jurisdictions. This way, Congress and America's voters can be assured that the election equipment is operating properly, and votes are really being counted.

Creating these new standards will help ensure that our elections accurately reflect the intent of the voting public, and put into place an election system in which Americans can have full confidence.●

By Mrs. CLINTON:

S. 1986. A bill to amend the help America Vote Act of 2002 to require voter verification and improved security for voting systems under title III of the Act, and for other purposes; to the Committee on Rules and Administration.

Mrs. CLINTON. Mr. President, I rise to introduce the Protecting American Democracy Act of 2003, legislation that is vital to ensuring that the voting systems used in our Federal elections are as secure as possible while also ensuring that each and every voter in our Nation has an equal opportunity to verify his or her vote before that vote is cast and permanently recorded. At its core, this legislation will ensure that every vote is properly counted, ensuring the integrity of each vote, which is at the heart of our democracy.

In recent months, there has been discussion about the increasing use of electronic voting systems such as direct recording electronic systems (DREs), the first completely computerized voting systems. Computerized voting systems can have many advantages. As the Congressional Research

Service has reported, they are arguably the most user-friendly and versatile of any current voting system. Among many features, such voting machines can be easily programmed to display ballots in different languages and can be made fully accessible for persons with disabilities, including the visually impaired. They can also prevent overvotes and spoilage of ballots due to extraneous marks since no document ballot is involved. In addition, fully computerized systems have the ability to notify voters of undervotes. Presently, no other kind of voting system possesses so many features. For this reason, it is expected that within the next two years, with funding authorized under the Help America Vote Act of 2002 (''HAVA''), state and local jurisdictions across the country will begin purchasing fully computerized systems.

One of the disadvantages of these electronic voting systems, however, is that they do not give voters an opportunity to verify their votes—to confirm that the voting machinery is registering the vote that the voter intended to cast—before the vote is cast and permanently recorded. In addition, electronic voting systems raise other concerns because of the ability of the software in the voting system to be compromised, or worse, maliciously attacked, by someone who may want to alter the voting results. Indeed, a number of recent studies, including the July 2001 study by Caltech/MIT, the July 2003 study by Johns Hopkins and Rice universities, the September 2003 study by the Science Applications International Corporation, requested by the Governor of Maryland, and the two November 2003 studies conducted by Compuware Corporation and InfoSENTRY, requested by the Ohio Secretary of State, pointed to significant and disturbing security risks in electronic voting systems and related administrative procedures and processes.

That is why in addition to ensuring that voters have an opportunity to verify their vote, it is vital that we improve the security of voting system technology, and that means not only the kind of software that is used but also how, for example, that software is designed, stored, disseminated, updated, field tested, and used in an actual election. This is a developing consensus among computer security experts that not only is the security of electronic voting systems wholly inadequate, but that the security policies and procedures that State and local election officials, voting system vendors, and others use are non-existent, inadequate, or, if they exist, are not followed, which is the same as having no policy at all.

Our Nation is the greatest Nation on earth and it is the leading democracy in the world. Central to that democracy is ability of Americans to have confidence in the voting system used to register and record their votes. This is a fundamental standard that must be met. I have concerns, however, that our Nation is falling short of that standard.

That is why I am today introducing the ''Protecting American Democracy Act of 2003,'' which amends by adding a voter verification requirement for voting systems to give each voter an opportunity to verify his or her vote at the time the vote is cast. Voters will be given an opportunity to correct any error made by the voting system before the permanent voting record is preserved.

While requiring that all election jurisdictions give voters the ability to verify their votes, this legislation also gives States and local jurisdictions the flexibility to employ the most appropriate, accurate, and secure voter verification technologies, which may include voter-verifiable paper ballots, votemeters, modular voting architecture, and/or encrypted votes, for their State or jurisdiction in a uniform and nondiscriminatory manner. Any voter verification method used must ensure that voters with disabilities and other affected voters have the ability to cast their vote in private, and language minorities must have equal access in verifying their vote. This is important if we are to ensure that all Americans—including the more than 20 million voters who are visually impaired, the more than 40 million Americans who lack basic literacy skills, and millions of language minorities—will be able to exercise their constitutional right to vote.

To address critical security issues, the ''Protecting American Democracy Act of 2003'' also amends HAVA by adding a security requirement for voting systems to ensure that voting systems are as secure as possible. Specifically, voting systems must adhere to the security requirements for Federal computer systems as required under current law or, alternatively, more stringent requirements adopted by the Election Assistance Commission. Currently no such requirement exists. I believe that, at minimum, the systems used by the people of the United States to exercise their constitutional right to vote, the hallmark of our democracy, should be at least as secure as the computer systems used by the Federal Government.

The security requirements must also provide that no voting system shall contain any wireless device, which reduces the risk that hackers will be able to attack any electronic voting system. In addition, all software and hardware used in any electronic voting system must be certified by laboratories accredited by the Commission as meeting all security requirements.

The Act also requires the Election Assistance Commission to report to Congress within 6 months of enactment regarding a proposed security review and certification process for all voting systems. Within 3 months of enactment, the Government Accounting Office, unless the Commission has already completed the following report, must issue a report to Congress on the operational and management systems that should be employed to safeguard the security of voting systems, together with a schedule for how quickly each such measure should be implemented.

Lastly, immediately upon enactment, the National Institute of Standards and technology (NIST) must provide security consultation services to State and local jurisdiction. Two million dollars in Fiscal Years 2004 through 2006 are authorized to be appropriated to assist NIST in providing these security consultation services.

I cannot think of a more significant risk to our democracy than for Americans to lack complete confidence in the voting systems used to cast and count their votes in Federal elections. For all those who believe that in a democracy, there is no more important task than assuring the sanctity of votes, this should be an easy step to take to assure it. For this reason, I urge all of my colleagues to support this legislation. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1986

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protecting American Democracy Act of 2003''.

SEC. 2. REQUIRING VERIFICATION FOR VOTERS.

(a) IN GENERAL.—Section 301(a)(2) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)(2)) is amended by adding at the end the following new subparagraph:

''(C) VOTER VERIFICATION.—

''(i) The voting system shall provide a means by which each individual voter must be able to verify his or her vote at the time the vote is cast, and shall preserve each vote within the polling place on the day of the election in a manner that ensures the security of the votes as verified for later use in any audit.

''(ii) The voting system shall provide the voter with an opportunity to correct any error made by the system before the permanent record is preserved for use in any audit.

''(iii) The verified vote produced under this subparagraph shall be available as an official record.

''(iv) Any method used to permit the individual voter to verify his or her vote at the time the vote is cast and before a permanent record is created—

''(I) shall use the most accurate technology, which may include voter-verifiable paper ballots, votemeters, modular voting architecture, and encrypted votes, in a uniform and nondiscriminatory manner;

''(II) shall guarantee voters with disabilities and other affected voters the ability to cast a vote in private, consistent with paragraph (3)(A); and

''(III) shall guarantee voters alternative language accessibility under the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a), consistent with paragraph (4).''.

SEC. 3. REQUIRING INCREASED SECURITY FOR VOTING SYSTEMS.

(a) Section 301(a) of the Help America Vote Act of 2002 (42 U.S.C. 15481(a)) is amended by

adding at the end the following new paragraph:

''(7) INCREASED SECURITY FOR VOTING SYSTEMS.—

''(A) VOTING SYSTEM SECURITY REQUIREMENT.—The voting system shall adhere to security requirements for Federal computer systems or more stringent requirements adopted by the Election Assistance Commission after receiving recommendations from the Technical Guidelines Development Committee under sections 221 and 222. Such requirements shall provide that no voting system shall contain any wireless device. All software and hardware used in any electronic voting system shall be certified by laboratories accredited by the Commission as meeting the requirements of this subsection.

''(B) REPORT TO CONGRESS ON SECURITY REVIEW.—The Commission, in consultation with the National Institute of Standards and Technology (NIST), shall report to Congress not later than 6 months after the date of enactment of the Protecting American Democracy Act of 2003 regarding a proposed security review and certification process for all voting systems.

''(C) GENERAL ACCOUNTING OFFICE REPORT.—Not later than 3 months after the date of enactment of the Protecting American Democracy Act of 2003, the Government Accounting Office, unless the Commission has previously completed such report, shall issue a report to Congress on the operational and management systems that should be employed to safeguard the security of voting systems, together with a schedule for how quickly each such system should be implemented.

''(D) PROVISION OF SECURITY CONSULTATION SERVICES.—

''(i) IN GENERAL.—On and after the date of enactment of the Protecting American Democracy Act of 2003, the National Institute of Standards and Technology (NIST) shall provide security consultation services to State and local jurisdictions.

''(ii) AUTHORIZATION.—To carry out the purposes of this subparagraph, $2,000,0000 is authorized for each of fiscal years 2004 through 2006.''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if included in the enactment of the Help America Vote Act of 2002.

By Mr. LUGAR:

S. 1987. A bill to implement the obligations of the United States under the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America, known as ''the Additional Protocol'' signed by the United States on June 12, 1998; to the Committee on Foreign Relations.

Mr. LUGAR. Mr. President, at the request of the administration, I am pleased to introduce the Additional Protocol Implementation Act of 2003. This important legislation is needed to implement the provisions of the Protocol to the Agreement of the International Atomic Energy Agency, IAEA, Regarding Safeguards in the United States.

The United States signed the Additional Protocol in Vienna on June 12, 1998. President Bush submitted the Additional Protocol to the Senate on May 9, 2002. The State Department sent the implementing legislation to us on November 19, 2003, and asked that it be considered in conjunction with the Senate's advice and consent on the Protocol. The adoption of this agreement is an important step in demonstrating U.S. leadership in the fight against the spread of nuclear weapons. The Additional Protocol will provide the United States and the IAEA with another tool as we attempt to secure broader inspection rights in non-nuclear-weapon states that are parties to the Treaty on the Nonproliferation of Nuclear Weapons, NPT.

When the Committee on Foreign Relations reported out the NPT in 1968, it noted that ''the treaty's fundamental purpose is to slow the spread of nuclear weapons by prohibiting the nuclear weapon states which are party to the treaty from transferring nuclear weapons to others, and by barring the non-nuclear weapon countries from receiving, manufacturing, or otherwise acquiring nuclear weapons.'' Since the Senate ratified the NPT, we have seen 188 states join the United States in approving the treaty. But recently we also have seen a disturbing increase in the global availability of nuclear materials and reprocessing and enrichment technology. To ensure that these materials and technologies are devoted only to peaceful purposes, the IAEA must have the power to conduct intrusive inspections at almost any location in a non-nuclear-weapon state to verify state parties' commitments under the NPT.

The world community has learned that existing safeguard arrangements in non-nuclear-weapon states do not provide the IAEA with a complete and accurate picture of possible nuclear weapons-related activities. It is critical that the IAEA have the ability to expand the scope of its activities in states that pose a potential proliferation threat. At this point, the only means at the IAEA's disposal, beyond existing safeguards arrangements, is the Model Additional Protocol.

The United States, as a declared nuclear-weapon state party to the NPT, may exclude the application of IAEA safeguards on its nuclear activities. Under the negotiated Additional Protocol, the United States also has the right to exclude activities and sites of direct national security significance in accordance with its National Security exclusion. This provision is crucial to U.S. acceptance of the Additional Protocol and provides a basis for the protection of U.S. nuclear weapons-related activities, sites, and materials as a declared nuclear power.

The Additional Protocol does not contain any new arms control or disarmament obligations for the United States. While there are increased rights granted to the IAEA for the conduct of inspections in the United States, the administration has assured the committee that the likelihood of an inspection occurring in the United States is very low. Nevertheless, should an inspection under the Additional Protocol be potentially harmful to U.S. national security interests, the United States has the right, through the National Security Exclusion, to prevent such an inspection.

The Committee on Foreign Relations will hold hearings early next year to consider the Additional Protocol. I am confident the Committee will draft a resolution of ratification that will enjoy the support of the senate. Ratification of this treaty and passage of its implementing legislation would be an important demonstration of the U.S. commitment to vigorous and expansive authority for the IAEA in non-nuclear-weapon states.

I am pleased to introduce this legislation today as a statement of the Committee's strong support for aggressive verification capabilities in the global fight against the spread of weapons of mass destruction. I look forward to working closely with my friend, Senator HATCH, Chairman of the Committee on the Judiciary, to construct legislation that protects U.S. national security interests, while strengthening the ability of the IAEA to discover illegal nuclear weapons activities.

the package I send to the desk today contains a letter from the Department of State, the administration's implementing legislation, and a section-by-section analysis, all submitted by the administration.

I ask unanimous consent that the referenced letter and analysis be printed in the RECORD.

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

UNITED STATES DEPARTMENT OF STATE,
Washington, DC.

HON. RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations, United States Senate.

DEAR MR. CHAIRMAN: On behalf of the President, I am pleased to submit for consideration the Administration's recommended text for legislation to implement the Protocol Additional to the Agreement Between the United States of America and the International Atomic Energy Agency for Application of Safeguards in the United States of America (U.S.–IAEA Additional Protocol). The U.S.–IAEA Additional Protocol, signed in Vienna on June 12, 1998, is a bilateral treaty that supplements and amends the Agency verification arrangements under the existing Agreement Between the United States of America and the International Atomic Energy Agency for the Application of Safeguards in the United States of America of November 18, 1977 (the ''Voluntary Offer''), which entered into force on December 9, 1980.

The U.S.–IAEA Additional Protocol contains a number of provisions that require implementing legislation to give them effect within the United States. These include:

Declarations of U.S. civil nuclear activities and related industry;

Restrictions on disclosure of information; and

International inspections of locations in the United States.

The President, in his letter of transmission dated May 9, 2002, stated that the U.S.–IAEA ''Additional Protocol is in the best interests of the United States. Our acceptance of this agreement will sustain our longstanding record of voluntary acceptance of nuclear safeguards and greatly strengthen our ability to promote universal adoption of the

Model Protocol, a central goal of my nuclear nonproliferation policy. Widespread acceptance of the Protocol will contribute significantly to our nonproliferation objectives as well as strengthen U.S., allied and international security.'' We urge the Senate to give early and favorable consideration to the Protocol and the recommended implementing legislation.

The Office of Management and Budget advises that there is no objection to the submission of this proposal and its enactment, is in accord with the President's program.

We hope this information and the enclosed recommended legislation and sectional analysis are helpful. Please let us know if we can be of further assistance.

Sincerely,

PAUL V. KELLY,
Assistant Secretary, Legislative Affairs.

SECTION-BY-SECTION ANALYSIS OF THE PROPOSED ADDITIONAL PROTOCOL TO THE U.S.-IAEA SAFEGUARDS AGREEMENT IMPLEMENTATION ACT OF 2003

OVERVIEW

The Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in the United States of America (the Additional Protocol) contains a number of provisions that require legislation to give them effect within the United States. These include provisions on the submission to the United States Government of civil nuclear and nuclear-related information by entities identified in Article 2 of the Additional Protocol, and on civil and criminal penalties for failure of such entities to keep or provide such information. The proposed legislation also sets forth procedures for inspections, or ''complementary access,'' by the IAEA at U.S. locations under the Additional Protocol.

The proposed Additional Protocol to the U.S.-IAEA Safeguards Agreement Implementation Act (the Act) contains five miscellaneous sections and six titles. The five miscellaneous sections concern the short title of the Act, the table of contents, Congressional findings, definitions, and a severability clause. Title I provides specific authority for the President to implement and carry out the Act and the Additional Protocol through directing the issuance of necessary regulations. Title II authorizes complementary access at U.S. locations consistent with the Act, and establishes the terms upon which such access may take place. For example, it addresses the notice that must be given to the owner or operator of the inspected location, and the procedures to be followed for seeking access—including obtaining an administrative search warrant where necessary. Title III restricts disclosure of certain information provided pursuant to the Act or the Additional Protocol. Title IV makes it illegal for entities willfully to fail to report information required by regulations pursuant to the Act, and Title V provides for criminal and civil penalties for such violations. Finally, Title VI authorizes appropriation of funds for the Agencies required to carry out responsibilities under the Act.

MISCELLANEOUS SECTIONS

The first part of the Act contains five miscellaneous sections: the short title of the Act, the table of contents, Congressional findings, definitions, and a severability clause. The first two sections are standard provisions. The third section contains seven Congressional findings, which recognize the threat posed by nuclear proliferation, the importance of the Nuclear Non-Proliferation Treaty (NPT), the urgency of strengthening its safeguards system, and the need to implement the U.S.-IAEA Additional Protocol as a means of encouraging other NPT State Parties to accept stricter verification measures. The fourth section provides definitions of key terms as they are used in the Act. In many instances, the same definitions appear in the Additional Protocol, and are therefore cross-referenced. Finally, the fifth section provides that, if any provision of the Act is held invalid, the remainder of the Act shall remain in force. The Administration believes that the Additional Protocol and the Act are fully consistent with the U.S. Constitution, but has included this section as a matter of prudence.

TITLE I—AUTHORIZATION

Title I authorizes the President to implement and carry out the provisions of the Act and the Additional Protocol. This is to be accomplished through an Executive Order designating Agencies to promulgate regulations requiring, inter alia, submission to the United States Government of information specified under Article 2 of the Additional Protocol. This information is necessary for the United States to fulfill its Treaty obligation to provide the IAEA with a broad declaration of its civil nuclear and nuclear-related activities. While the Agencies most likely to issue or amend such regulations are identified in Section 101(a) of the Act, this list is not exclusive.

TITLE II—COMPLEMENTARY ACCESS

Title II sets forth the terms under which complementary access may occur in the United States. Section 201 of the Act makes clear that the IAEA may not conduct complementary access in the United States without the authorization, in accordance with the Act, of the United States Government. It further directs that certain U.S. agencies may not participate in complementary access. These agencies, including the Environmental Protection Agency and the Occupational Safety and Health Administration, are excluded because their employees may detect violations of regulatory schemes wholly unrelated to the Additional Protocol. Section 201 further requires the number of U.S. representatives be kept to a minimum.

Section 202 addresses procedures for complementary access. For example, Section 202(b) sets forth the requirement for the United States Government to provide ''actual written notice'' of a complementary access request, as soon as possible, to the owner, operator, occupant or agent in charge of the location to be inspected. The notice must contain all appropriate information provided by the IAEA concerning the purpose of the access request, the basis for selection of the location, the activities it intends to carry out, the time and duration of the access, and the identities of inspectors. In addition, Section 202(c) requires IAEA and U.S. personnel participating in the complementary access to show their credentials prior to gaining entry to the inspected location.

Section 202(d)(1) states the general rule that IAEA inspectors may conduct all activities specified under Article 6 of the Additional Protocol for the type of location being inspected. However, there are several exceptions to this rule. First, a warrant issued authorizing complementary access at a location may restrict the activities that inspectors may conduct. Second, as indicated in 202(d)(1), the United States Government has certain rights under the Additional Protocol to limit such access. In addition to its right under Article 1(b) of the

Protocol to deny IAEA access to activities with direct national security significance or to location or information associated with such activities, the United States may manage access in connection with such activities, locations or information. These rights are unilateral and absolute; they are not subject to challenge by or negotiation with the IAEA. Furthermore, Article 7 of the Additional Protocol provides for managed access, under arrangements with the IAEA, to prevent the dissemination of proliferation sensitive information, to meet safety or physical protection requirements, or to protect proprietary or commercially sensitive information. Third, Section 202(d)(2) lists a series of items that are specifically excluded from IAEA access. This third set of exceptions, which are mainly directed at protecting commercial information, may not however be enforced if the Additional Protocol requires such disclosure. Section 202(e) requires that all persons participating in complementary access, including U.S. representatives, observe all environmental, health, safety and security regulations applicable for the inspected location.

Section 203 provides the legal framework for IAEA inspectors to gain complementary access to U.S. locations under the Additional Protocol. Section 203(a) sets forth three grounds for such access: warrantless access, where the Fourth Amendment of the U.S. Constitution does not require a warrant; consent to the access by the owner/operator of the location; or, where necessary, obtaining an administrative search warrant. Section 203(a)(2) makes clear that the legislation is intended to impose no warrant requirement beyond that which is required by the Fourth Amendment. Where such a warrant requirement exists, Section 203(a)(1) directs the United States Government first to seek consent to access from the location's owner or operator. The remainder of Section 203 addresses the requirements for obtaining an administrative search warrant, and what such a warrant should contain. Section 203(b)(1) states that the United States Government shall provide to the judge all appropriate information it has received from the IAEA regarding its basis for selecting a particular location for complementary access. A ''judge of the United States'' is defined by the Act to mean a judge or magistrate judge of a district court of the United States. In addition, Section 203(b)(2) requires the United States to submit to the judge a more detailed affidavit showing, among other things, that the Additional Protocol is in force in the United States, applicable to the location to be inspected, and that the complementary access requested is consistent with the provisions of the Additional Protocol, including Article 4 regarding the purpose of the access, and Article 6 regarding its scope. The affidavit must also indicate the anticipated time and duration of the inspection.

Finally, the affidavit must show that the location to be inspected was selected by the IAEA either (i) because there is probable cause, on the basis of specific evidence, to believe that information required to be reported regarding a location pursuant to regulations promulgated under the Act is incorrect or incomplete, and that the location to be accessed contains evidence regarding that violation; or (ii) pursuant to a reasonable general administrative plan developed by the IAEA based upon specific neutral criteria. Selection based on either of these approaches would meet U.S. Constitutional requirements for issuance of a warrant. Section 203 directs that a judge, upon receiving the affidavit, shall promptly issue an administrative search warrant authorizing the requested complementary access. The warrant is to specify the same information as the affidavit, and shall, if known, also include the identities of the IAEA complementary access

team and accompanying U.S. representatives.

TITLE III—CONFIDENTIALITY OF INFORMATION

Title III of the proposed implementing legislation restricts the disclosure of information provided to the United States Government, or to its contractor personnel, pursuant to the Act or the Additional Protocol. For example, Section 301(a) exempts from the Freedom of Information Act (FOIA) disclosure information obtained by the United States Government in implementing the provisions of the Additional Protocol. Thus, information reported to the Government by entities covered by Article 2 of the Additional Protocol, as required by regulation, is not subject to release under the FOIA.

TITLE IV—RECORDKEEPING

Title IV of the proposed implementing legislation prohibits the willful failure of any person to maintain records or submit reports to the United States Government as required by regulations issued under Section 101 of the Act. The prohibitions of Title IV are necessary to implement the Additional Protocol, as the United States is dependent on such reporting to meet its Treaty obligations. A person is defined by the Act very broadly to ensure that all possible entities within the United States are covered.

TITLE V—ENFORCEMENT

Title V of the proposed implementing legislation provides for both civil and criminal penalties for failure to meet the recordkeeping and reporting requirements of Title IV. Violators shall be subject to imprisonment for not more than five years, criminal fines, and civil penalties up to $25,000 per violation. While the Agency issuing the applicable regulations is responsible for their enforcement, an entity subject to civil penalty under this Title may seek judicial review. Title V also provides United States district courts with jurisdiction to specifically enforce Agency orders, either by restraining or compelling action so as to avoid a violation of Title IV.

TITLE VI—AUTHORIZATION OF FUNDS

Title VI of the proposed legislation authorizes the appropriation of such sums as necessary to carry out the purpose of the Act.

By Mr. DASCHLE (for Mr. KERRY (for himself and Mr. KENNEDY)):

S. 1991. A bill to require the reimbursement of members of the Armed Forces or their family members for the costs of protective body armor purchased by or on behalf of members of the Armed Forces; to the Committee on Armed Services.

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

• Mr. KERRY. Mr. President, it is the responsibility of the military departments to ''organize, train, and equip,'' the armed forces of the United States. Yet, reports indicate that nearly a quarter of the 130,000 U.S. troops in Iraq still wait for the latest ''Interceptor'' body armor, which is a Kevlar vest with ''small-arms protective inserts''—boron carbide ceramic plates—that protect critical organs from weapons fired by assault rifles like the Ak–47s favored by Iraqi insurgents.

While the Congress has taken measures to provide the latest personal protective gear to all U.S. forces in Iraq and Afghanistan, over the last several months we have heard alarming reports of family members scurrying to buy bullet-proof vests to send to their loved ones in Iraq. Military families are patriotic and selfless. Their devotion is no less than that of those serving in harm's way. They have more than enough to worry about, let alone whether or not they can find and buy the gear that might save their child's life. This is the responsibility of the Department of Defense, plain and simple. There is no excuse for their failure.

On November 19, 2003, acting-Secretary of the Army Les Brownlee admitted to Congress that the administration failed to provide basic equipment, like body armor, to all of our forces in Iraq because, as he put it, ''Events since the end of major combat operations in Iraq have differed from our expectations and have combined to cause problems.'' The Washington Post reported recently that, ''Going into the war in Iraq, the Army decided to outfit only dismounted combat soldiers with the plated vests, which cost about $1,500 each. But when Iraqi insurgents began ambushing convoys and killing clerks as well as combat troops, controversy erupted.'' I ask unanimous consent that the full text of this article be included in the RECORD.

Stories abound of family members, fathers and mothers, wives, and others paying for personal body armor out of their own pockets and shipping the much needed equipment to Iraq. Consider the case of Mimi McCreary of Victorville, CA, whose son Olaf received his bullet-proof vest not from his reserve unit, but from his colleagues on the Clinton, SC, police department. Or consider the 120 members of the National Guard from Marin County, CA, who were unsure of when their body armor would be made available. Instead of letting their neighbors go off to war, the men and women of law enforcement in Marin County donated more than 60 vests so that they would have ''at least some protection.'' Or consider Army Specialist Richard Murphy of Sciota, PA, whose parents, Susan and Joe Werfelman, purchased the ceramic plates missing from their son's vest. According to Murphy's stepfather, he ''called us frantically three or four times on this . . . We said, ''If the Army is not going to protect him, we've got to do it.''

We owe Mr. and Mrs. Werfelman and Mrs. McCreary and every other military family an incredible debt of gratitude. They raised children who believe in this country and are risking all in service to it. The last thing we should ask of them now is to take money out of their own pockets to buy the gear their kids should have had in the first place. But that's exactly what poor planning has led to.

The legislation I introduce today with Senator KENNEDY requires the Department of Defense to reimburse family members who paid money out of their own pockets to provide the personal body armor that the government failed to provide our troops. Lives and blood will always be the cost of war. But it is a dereliction of duty to send anyone into harm's way without basic protective gear, and it is disgusting for family members to have to take this burden of outfitting their loved ones for war. This grateful Nation must make right by those family members and reimburse their expenses in providing these materials to their sons and daughters, husbands and wives. Let families send pictures and letters from home. The Department of Defense should provide the gear.

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

[From the Washington Post, Dec. 4, 2003]

BODY ARMOR SAVES LIVES IN IRAQ

(By Vernon Loeb and Theola Labbé)

BAGHDAD.—Pfc. Gregory Stovall felt the explosion on his face. He was standing in the turret of a Humvee, manning a machine gun, when the roadside bomb went off. At the time, he was guarding a convoy of trucks making a mail run. In an instant, Stovall's face was perforated by shrapnel, the index finger on his right hand was gone, and the middle finger was hanging by a tendon. But the 22-year-old from Brooklyn remembers instinctively reaching for his chest and stomach—''to make sure everything was there,'' he said. It was, encased in a Kevlar vest reinforced by boron carbide ceramic plates that are so hard they can stop AK–47 rounds traveling 2,750 feet per second. Thus, on the morning of Nov. 4, Stovall became the latest in a long line of soldiers serving in Iraq to be saved by the U.S. military's new Interceptor body armor.

This high-tech ''system''—the Kevlar vest and ''small-arms protective inserts,'' which the troops call SAPI plates—is dramatically reducing the kind of torso injuries that have killed soldiers on the battlefield in wars past.

Soldiers will not patrol without the armor—if they can get it. But as of now, there is not enough to go around. Going into the war in Iraq, the Army decided to outfit only dismounted combat soldiers with the plated vests, which cost about $1,500 each. But when Iraqi insurgents began ambushing convoys and killing clerks as well as combat troops, controversy erupted.

Last month, Rep. TED STRICKLAND (D-Ohio) and 102 other House members wrote to Rep. DUNCAN HUNGER (R-Calif.), chairman of the House Armed Services Committee, to demand hearings on why the Pentagon had been unable to provide all U.S. service members in Iraq with the latest body armor. In the letter, the lawmakers cited reports that soldiers' parents had been purchasing body armor with ceramic plates and sending it to their children in Iraq.

The demand came after Gen. John Abizaid, head of the U.S. Central Command and commander of all military forces in Iraq, told a House Appropriations subcommittee in September that he could not ''answer for the record why we started this war with protective vests that were in short supply.''

With the armor, ''it's the difference between being hit with a fist or with a knife,'' said Ben Gonzalez, chief of the emergency room at the 28th Combat Support Hospital in Baghdad, the largest U.S. Army hospital in the country, which treats the majority of wounded soldiers.

Jonathan Turley, a law professor at George Washington University, began investigating the Army's decision not to equip all troops deploying to Iraq with Interceptor body armor after learning that one of his students, reservist Richard Murphy, was in the

country with a Vietnam-era flak jacket. ''There's been an overwhelming effort to get the military every possible resource,'' Turley said. ''To have such an item denied to troops in Iraq was a terrible oversight.'' Since he began publicizing the lack of body armor, Turley said, he has been deluged with e-mails from people offering to donate body armor to U.S. troops.

Joe Werfelman, the father of Turley's student, said he was dismayed to learn that his son had been sent to Iraq in May without ceramic plates. ''He called us frantically three or four times on this,'' Werfelman said in an interview. ''We said, 'If the Army is not going to protect him, we've got to do it.' '' So Werfelman, of Scotia, Pa., found a New Jersey company that had the ceramic plates in stock, plunked down $660 for two plates and a carrying case, and sent them to his son. ''As far as I know, he's still using the ones that we got him'' he said. ''Some units have the new plates and some units don't.''

At a hearing of the Senate Armed Services Committee on Nov. 19, Sen. JOHN W. WARNER (R-Va.), the committee's chairman, told Acting Army Secretary Les Brownlee that the shortage of body armor in Iraq was ''totally unacceptable.'' ''Now, where was the error—and I say it's an error made in planning—to send those troops to forward-deployed regions, and the conflict in Iraq, without adequate numbers of body armor?'' Warner asked. ''Events since the end of major combat operations in Iraq have differed from our expectations and have combined to cause problems,'' Brownlee said. Before approving the administration's $87 billion supplemental bill for Iraq and Afghanistan, Congress added hundreds of millions of dollars for more body armor, armored Humvees, and other systems to protect soldiers from roadside bombs and ambushes.

Now, three manufacturers are working overtime to produce the 80,000 vests and 160,000 plates required to outfit everyone in Iraq by the end of the year. Assembly lines are producing 25,000 sets a month.

Commanders say the vests are changing the way soldiers think and act in combat. ''I will tell you that the soldiers—to include this one—experience some degree of feeling a little indestructible, particularly in light of the fact that we have seen the equipment work,'' said Lt Col. Henry Arnold, a battalion commander and combat veteran in the 101st Airborne Division in northern Iraq. ''It's a security blanket,'' Stovall said from his hospital bed, awaiting a medevac flight to Germany with his hand bandaged. ''If only they had a glove, I might have my finger, but I'm thankful that I'm here.''

The product of a five-year military research effort aimed at reducing the weight and cost of the plates while increasing their strength, the body armor made its combat debut last year in Afghanistan and was credited with saving more than a dozen lives during Operation Anaconda. The camouflage Kevlar vest, which alone can stop rounds from a 9mm handgun, weighs 8.4 pounds, while each of the plates weighs 4 pounds. At 16.4 pounds, Interceptor body armor is a third lighter than the 25-pound flak jacket from the Vietnam era, but it provides far more protection.

Consider the case of Charlie Company, 1st Battalion, 505th Parachute Infantry Regiment of the 82nd Airborne Division. During a foot patrol in Fallujah in late September, an Iraqi insurgent suddenly emerged from an alleyway and fired an AK–47 at Spec. John Fox from point-blank range. Fox was hit in the stomach as he returned fire, and the blast knocked him off his feet. The bullet hit the middle of three ammunition magazines hanging from the front of his Kevlar vet, igniting tracer rounds and setting off a smoke grenade. A thick gray plume poured from his vest where he lay. His squad mates, having shot and killed the gunman, rushed to his side. ''Am I bleeding? Am I bleeding?'' they recalled Fox asking. They checked and discovered he was unharmed. His body armor had protected him not only from the AK–47 round by also from his own exploding munitions. ''Fox must have been only 10, 15 meters from this guy,'' recalled St. Roger Vasquez. ''And this thing stopped the bullet.''

A month later, two of those who had rushed to Fox's side, Spec. Sean Bargmann and Spec. Joseph Rodriguez, were on a mounted patrol in Fallujah, sitting atop a Humvee, when a powerful roadside bomb exploded just feet away. ''It felt like somebody took a Louisville Slugger to my head,'' Bargmann said. Weeks after the attack, he and Rodriguez still bore the outlines of their armor: The tops of their head, protected by their Kevlar helmets, and their torsos, protected by their body armor, were unscathed. But Bargmann had a deep cut right below the helmet line, and Rodriguez had three scars running down his right cheek and a scar above his left eye.

This often happens with body armor: Lives are saved, but faces, arms and legs are punctured and scarred. Doctors are treating serious wound to the extremities that are creating large numbers of amputees—soldiers who in earlier wars never would have made it off the battlefield. Gonzalez, the doctor at the 28th Combat Support Hospital, is not complaining about the number of amputations. ''The survival rate has increased significantly,'' he said. ''In the past, you'd see head and chest and abdominal injuries. They would die even before they got to me.''

Sgt. Gary Frisbee of the 2nd Armored Cavalry Regiment remembers standing in the turret of a Humvee waiting to die. His vehicle was bringing up the rear during a routine three-vehicle patrol in Sadr City, Baghdad's vast Shiite slum, when hundreds of armed followers of the Shiite cleric Moqtada Sadr opened fire on them with AK–47s and rocket-propelled grenades. ''I knew it was all over; it was just a matter of when,'' he recalled. ''You're bracing yourself, because you're just waiting for the bullet to hit you. The volume of AK fire was unreal, from the roofs, in front of your, and behind you.'' Two of 10 soldiers on the patrol were killed; four were wounded. During the battle, Frisbee felt something hit the back of his Kelvar vest but kept on fighting. When the smoke finally cleared, he pulled out the back plate to see what had happened and found a bullet hole. It has been, as he had thought, just a matter of time. He had been hit—and saved by boron carbide.●

By Mr. KENNEDY:

S. 1992. A bill to amend the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 to eliminate privatization of the medicare program, to improve the medicare prescription drug benefit, to repeal health savings accounts, and for other purposes; to the Committee on Finance.

Mr. KENNEDY. Mr. President, today, along with Senator BOB GRAHAM I am introducing the ''Defense of Medicare and Real Prescription Drug Benefit Act.'' Congressman JOHN DINGELL is introducing companion legislation in the House of Representatives.

The more senior citizens learn about the legislation President Bush has just signed, the more concerned they are. It's a sweetheart deal for big insurance companies and pharmaceutical companies and a raw deal for senior citizens. It's not really a prescription drug bill. It's an anti-Medicare bill.

Our legislation will reverse these destructive policies. Our legislation will protect and preserve Medicare—not turn senior citizens over to the un-tender mercies of HMOs and insurance companies. It will provide prescription drug benefit for senior citizens, without coverage gaps or hidden loopholes. It will protect senior citizens with good retirement coverage from a former employer, and it will protect the poorest of the poor on Medicaid. It will reduce prescription drug costs, by allowing safe importation of drugs from Canada and government negotiations with drug companies for discounts. And it will repeal the program of Health Savings Accounts that help the healthy, wealthy and insurance companies who have contributed heavily to the Republican Party, while harming every family that needs comprehensive, affordable health insurance.

The legislation the President signed is designed to destroy Medicare and turn senior citizens over to the un-tender mercies of HMOs. Our legislation will protect Medicare.

The legislation the President signed provides a skimpy, inadequate, and unreliable drug benefit. Our legislation provides comprehensive drug coverage and assures that senior citizens can get it everywhere in the country without having to join an HMO or other private plan.

The legislation the President signed denies senior citizens the right to get safe drugs at lower prices from Canada and prohibits the government from negotiating with drug companies to get a good deal for senior citizens. This legislation eliminates those special interest, anti-senior provisions.

The legislation the President signed allows unfettered Heath Savings Accounts. These accounts are a bonanza for the healthy, the wealthy, and for favored insurance companies, but they are a disaster for ordinary citizens who need comprehensive coverage and can't afford to put thousands of dollars aside to meet medical needs that insurance is supposed to cover. This legislation repeals this unwise policy.

Senior citizens want prescription drug coverage under Medicare, and they deserve it. Instead, the President and the Republican Party used their control of Congress to attack Medicare itself and force senior citizens into HMOs and other private insurance plans. They want to privatize Medicare, and if they get away with it, they'll try to privatize Social Security too.

Their legislation raises Medicare payments to HMOs so that Medicare can't compete. They use the elderly's own Medicare money to undermine the Medicare program they depend on. According to estimates of the Medicare Actuary, Medicare already pays 16 percent too much for every senior citizen

who joins an HMO or other private insurance plan, because these programs attract the healthiest elderly. IN addition, the Republican legislation raises the base payment to 109 percent of what it costs Medicare to care for an average senior citizen, without even taking into account the health selection bonus the HMOs receive. The total overpayment is 25 percent—a whopping $2,000 per senior citizen. And to top it all off, the legislation establishes a $12 billion slush fund for the new PPO program established by the bill. This isn't competition, its corporate welfare—and senior citizens and the Medicare program are the losers.

Their legislation also creates a vast social experiment—called the ''premium support'' program—using millions of senior citizens as guinea pigs. The sole purpose of the experiment is to raise Medicare premiums so that senior citizens have to give up their Medicare and join an HMO.

Our legislation eliminates these indefensible overpayments and restores parity to the competition between conventional Medicare and private sector alternatives. It repeals the premium support program, so that senior citizens will have choice, not coercion, when they decide whether they prefer conventional Medicare or an HMO.

The assistance with prescription drug costs their program provides is actually very little. Overall, it covers less than 25 percent of the drug expenses faced by the elderly. Senior citizens with $1,000 in drug expenses would pay 86 percent of the cost out of their own pockets. Those with $5,000 in drug expenses would pay 78 percent. When senior citizens' drug costs exceed $2,250, they get no benefits at all until their costs reach $5,100, even though they have to continue to pay premiums. And senior citizens won't necessarily have access to the drugs their doctor's prescribe, if they aren't on the formularies of the private insurance companies that will administer the benefit. A bus ticket to Canada would do more to reduce drug costs for senior citizens than this bill.

Our legislation fills the gaps in the Medicare benefit, so that it truly meets the needs of the elderly and is comparable to the assistance provided under most private insurance plans and that is available to every member of Congress. It assures that the formularies offered by the insurance companies administering the program are not manipulated by the companies to exclude the drugs senior citizens need most.

Nine million senior citizens—almost one of every four—will actually be worse off in their drug coverage under the Bush program than they are today. According to the nonpartisan Congressional Budget Office, almost 3 million senior citizens with good retiree drug coverage through a former employer will lose it as the result of this bill. Six million senior citizens and the disabled who have both Medicare and Medicaid—the poorest of the poor—will actually pay more and have reduced access to the drugs they need. The Bush plan establishes a cruel and demeaning assets test, so that millions of senior citizens with very low incomes are disqualified from the special assistance they need, simply because they have managed to save a little bit for a rainy day, or because they have a car that's worth too much or a burial fund, or personal property like jewelry or furniture.

Our legislation addresses these problems. It ends the discriminatory treatment of senior citizens with private retirement coverage, so that employers do not have an incentive to drop this coverage. It restores benefits to dual eligibles—senior citizens with coverage under both Medicare and Medicaid—so that they will not be made worse off by the new program. It eliminates the assets test.

The Republican bill does nothing about escalating drug prices. Republicans even had the nerve to include a specific prohibition on any role by the Federal government in any negotiation on drug prices. The Congressional Budget Office has estimated that drug prices will actually increase as the result of this bill. No wonder drug company stocks are soaring and senior citizens are concerned. Our legislation will allow reimportation of drugs from Canada—where drug prices are much lower—with stringent controls to assure that any imported drugs meet FDA standards. It will allow the Federal government to negotiate the best possible price for prescription drugs, so that senior citizens and the Medicare program are no longer victimized by exorbitant prices that have little relationship to costs or value.

It's not just seniors who are very concerned. Younger Americans will be hurt too. A separate booby trap in the Republican program includes tax breaks for the healthy and wealthy to buy private policies with very high deductibles that will undermine health insurance for those who are not elderly. These tax breaks, called health savings accounts, encourage people to buy high deductible policies and put money aside in a tax-free savings account. Because the healthy people don't contribute to the cost of regular insurance, premiums skyrocket for people who can't afford thousands of dollars in out-of-pocket costs before their insurance kicks in. The Urban Institute and the American Academy of Actuaries have estimated that premiums for regular insurance policies could increase 60 percent or more. Our bill repeals this unjustified and destructive policy.

The President's signing of the Republican legislation yesterday was the beginning of this fight, not the end. We will never rest until we have protected Medicare and provided senior citizens a prescription drug benefit that truly meets their needs.

I ask unanimous consent that a summary of the ''Defense of Medicare and Real Prescription Drug Benefit Act'' be printed in the RECORD.

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

SUMMARY: PROVISIONS OF THE DEFENSE OF MEDICARE AND REAL MEDICARE PRESCRIPTION DRUG BENEFIT ACT

Title 1: Defense of Medicare

Repeals the premium support demonstration.

Requires risk adjustment between private sector plans and Medicare. Medicare will pay private sector plans an amount reflecting Medicare's cost for covering an individual, rather than paying HMOs a large markup as a result of failing to adjust for the better health of senior citizens who join HMOs.

Repeals PPO slush fund.

Pays all private sector plans an amount equivalent to average Medicare costs, rather than paying an average of 109 percent of Medicare costs, as provided under the current legislation. Phased in over 5 years.

Repeals Medicare spending cap.

Title II: Establishment of Real Medicare Prescription Drug benefit

Elminates coverage gap in 2006–2008, beneficiaries will pay 75 percent coinsurance in the coverage gap. In 2009–2011, they will pay 50 percent. In 2012 and subsequent years, they will pay the same 25 percent copayment as under the initial coverage limit.

Eliminates discriminatory treatment of employer plans.

Allows Medicaid wrap-around for dual eligibles.

Eliminates assets test.

Requires two stand-alone prescription drug plans to avoid federal fallback.

Secretary defines classes and categories under any formula.

Repeals prohibition on Medigap coverage of prescription drugs. Modifies current Medigap policies covering drugs to wrap-around new benefit.

Phases out elimination of state ''clawback.''

Title III: Reduction in Prescription Drug Prices

Allows reimportation from Canada with certification and inspection of Canadian exporters to assure safety of drugs.

Repeals prohibition on government negotiating directly with drug companies for best prices and gives authority for such negotiations.

Title VI: Repeals Health Savings Accounts

By Mr. WARNER (for himself and Mrs. CLINTON):

S. 1993. A bill to amend title 23, United States Code, to provide a highway safety improvement program that includes incentives ot States to enact primary safety belt laws; to the Committee on Environment and Public Works.

Mr. WARNER. Mr. President, I am pleased to introduce today with my distinguished colleague from New York, Senator CLINTON, the National Highway Safety Act of 2003. It would be our intention in the course of the deliberations next year on the reauthorization or, as we call it, the successive piece of legislation to TEA–21, that this bill, which we introduce today, would be incorporated as an amendment.

As the Congress prepares to consider legislation next year to enact a new 6-year surface transportation law to succeed TEA–21, our foremost responsibility, in my judgment and in the judgment of many, and in the judgment of the President of the United States, must be to improve highway safety for the driving public. Simply by increasing the number of Americans who will buckle up is the most effective step that can be taken to save the their lives and the lives of others. That is the single most important step.

I am privileged to serve on the Environment and Public Works Committee that has now completed its markup of the TEA–21 reauthorization bill. The bill addresses, as it should, highway safety measures, such as how to build safer roads, how to do use new technologies to improve safety. But, statistics show that the greatest measure of safety, again, to drivers, passengers, and possibly third parties not connected with the vehicle, is through the use of a seatbelt. It is remarkable, the lives that have been saved through the use of this simple device. I have, through my career in the Senate—I say with modesty—been associated with, and indeed I think in the forefront of, trying to move forward on seatbelt legislation. I will not belabor what this humble Senator has done working with others through the years, but we are very proud today that America has about a 79 percent use rate of seatbelts. That has been translated into the saving of tens of thousands of lives and injuries in automobile accidents.

Those are the facts. Are we just going to have a standstill, or are we going to move forward? Senator CLINTON and I think we should move forward with this somewhat new approach. I will address the technical aspects as we go along.

We have debated the benefits of seatbelt use on many occasions in this body, and elsewhere across America. And whether it is in the town forums we conduct, town meetings, or here on the floor of the Senate, there is always that individual who comes back: Don't tell me what I have to do. What does it matter to you, JOHN WARNER—or to any other colleague with whom I am privileged to serve—what does it matter to you whether I buckle up?

Well, let's take a look. No one disputes that the absence of a seatbelt causes more serious loss of life and injury and, to some extent, crashes. The statistics show that with the impact associated with the crash, to the extent the driver can maintain, as best he can control of the vehicle in those fatal microseconds, often fatal, perhaps the severity of the crash, and perhaps the loss of life can be reduced by the use of a safety belt—simply said.

Accidents involving unbelted drivers result in a significant cost to the wallet, out of your pocket. Many people are rushed from the accident scene to various emergency facilities. All of that has the initial cost of the law enforcement that responds, the rescue squads that respond, and eventually the emergency room or whatever medical facility you might have the good fortune to be taken to, to hopefully save you your life. That isn't free. There is a cost. Maybe it is a hidden cost in the budgets of the towns and the communities and the States, but there is definitely a cost. Regrettably, a number of persons who suffer those types of injuries are uninsured. Again, the cost often devolves down on the good old hard-working taxpayers; in most instances, the taxpayers who buckle up.

This also is rather interesting and fascinating. When an accident happens, regrettably, on our roads and highways across this great Nation, we try to refrain from rubbernecking. Nevertheless, chances are that we take a glance. More often than not, the accident with the combined slowdown of those passing the accident causes significant congestion for some considerable portion of time. Either the lane in which we are traveling moves very slowly because of the accident or, indeed, we come to a standstill, as often is the case when a lane is closed to clear an accident. That standstill frequently is necessitated because of the severity of the injuries experienced in that accident. It takes the response team longer in their carefully trained steps to extricate the injured person, to give the initial treatment, and then to carefully transport that individual, if necessary, to a medical facility. That takes time. That road is backed up.

That is lost time for your mission on the road, be it for business, family, or pleasure. That is lost time and productivity. Behind you often are trucks and other vehicles involved in commerce. That is lost time and delay due to the seriousness occasioned by injuries and accidents where there has been the lack of use of seatbelts. It is as simple as that.

The legislation Senator CLINTON and I are introducing today will take an important step forward for the States to adopt either a primary safety belt law, or take steps of their own devising to meet a 90 percent seat belt use rate—not the Warner-Clinton bill or the legislative measure put forth by the administration upon which Senator CLINTON and I draw for concepts of certain portions. The States can decide for themselves how they achieve a 90-percent goal of the use of seatbelts in their respective States. That is the purpose of this legislation—to move every State to a 90-percent use rate for safety belts.

In a letter dated November 12, 2003, to Chairman INHOFE of the Committee on the Environment and Public Works, on which I am privileged to serve, Secretary Mineta states:

> President Bush and I believe that increasing safety belt usage rates is the single most effective means to decrease highway fatalities and injuries.

That is explicit and clear. The Secretary goes on to say:

> The surest way for a State to increase safety belt usage is through the passage of a primary safety belt law.

I have had this debate with Governors, former Governors, even in this Chamber with former Governors. I think they would tell you that a primary safety belt law is a tough piece of State legislation to pass solely on its own. Frankly, it needs the impetus of Uncle Sam, the impetus of the Congress of the United States to move that process in the States forward, so the local politicians can shake their fist saying, it is Washington that has done it again—more regulation, more direction—you know the arguments. But I think quietly in the hearts of those State legislatures is the thought that we will improve safety in my State. We will improve the chance of survivability on the roads in my State. So that is why we are here today. I ask unanimous consent that the full text of Secretary Mineta's letter be printed in the RECORD at the conclusion of my remarks.

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

Mr. WARNER. As provided in our legislation, the Warner-Clinton bill, States can increase seatbelt use either by enacting, as I said, a primary seatbelt law—everybody knows what a primary seatbelt law is and how it works. It means a law enforcement officer can literally stop a vehicle if they observe that the individual is not wearing his or her seatbelt. It is as simple as that. But a State, if they decide not to enact a primary safety belt law, can, by implementing their own strategies, whatever they may be—and there is a lot of innovation out in the States—that would result in a 90-percent safety belt use rate. So that is a challenge to the States.

The current national belt use, as I said, is 79 percent. But many States—those that have the primary law are sometimes at 90, or even above 90, but those that do not have the primary seatbelt law are down sometimes in the 60 percentile. It is the weight of the primary States that carries the percentile and brings it up to 79 from those States that don't have an effective law. States with their primary safety belt law have the greatest success for drivers wearing seatbelts.

On an average, States with the primary seatbelt law have a 10 to 15 percent higher seatbelt use compared to those with a secondary system. This demonstrates that secondary seatbelt

laws are far more limited in their effectiveness than a primary law.

Essentially, the secondary laws say that if a law enforcement officer has cause other than a perceived or actual seatbelt violation—namely, the driver didn't have it buckled—if they have cause to stop that car, for example, for a speeding offense or a reckless driving offense or indeed an accident and they observed there has been no use of the seatbelt, then in the course of proceeding to enforce the several laws of the State as regards speeding or reckless driving, or whatever the case may be, they can add a second penalty to address the absence of the use of the seatbelt in that State.

Drivers are gamblers. They say: Oh, well, don't worry, I will not buckle up. State law doesn't require it. Unless they stop me—and they are not going to stop me today. It is that gambling attitude that, more often than not, will cause an accident. Then it is too late.

So we come forward today to build on our national programs. We are building on what we did in TEA–21. I was privileged to be on the committee. I was chairman of the subcommittee 6 years ago. I worked with Senator CHAFEE, who was chairman of the full committee, and we drove hard to make progress with the seatbelt laws, and we did it. We basically put aside a very considerable sum of money to encourage States—again, using their own devices—to increase uses. As a direct consequence of what we did in TEA–21, there has been an 11 percent increase in these 6 years in the use of seatbelts.

Sadly, traffic deaths in 2002 rose to the highest level in over a decade. It is astonishing. Of the nearly 43,000 people killed on our highways, over half were not wearing their seatbelts. That is according to the National Highway Traffic Safety Administration. And 9,200 of these deaths might have been prevented if the safety belt had been used.

Those are alarming statistics. Automobile crashes are the leading cause of death for Americans age 2 to 34. Stop to think of that: age 2, that means a child; that means a parent neglected to buckle up a child. Automobile crashes are the leading cause of death for Americans age 2 to 34. That is our Nation's youth. Do we have a higher calling in the Congress of the United States than to do everything we can to foster the dreams and ambitions and the productivity of our Nation's youth? I think not. And this is one of the ways.

Last year, 6 out of 10 children who died in car crashes did not have the belt on—6 out of 10; that is over half. I plead with colleagues to join with me, join with the President who has taken this initiative.

My primary responsibility in the Senate—and this is one of the reasons I got interested in this subject—is the welfare of the men and women in the Armed Forces. I say to colleagues, again, the statistics are tragic. Traffic fatalities are the leading non-combat cause of death for our soldiers, sailors, airmen, and marines. They are in that high-risk age category, 18 to 35.

Someone even took a look at the statistics, the total of the fatalities last year, and said that represents in deaths approximately the size of the average U.S. Army battalion. That is several companies and maybe a reinforced element. Just think, that is the magnitude in one category of those who serve our United States, the men and women in the Armed Forces.

I cannot think of any reason why we all cannot join behind this effort. That alone is a driving impetus for this Senator.

The time is long overdue for a national policy to strengthen seatbelt use rates. I said a national policy, and that is what this bill represents, either through States enacting a primary seatbelt law or giving far greater attention to public awareness programs that result in more drivers and passengers wearing safety belts. Our goal is 90 percent—90 percent.

I have been privileged to serve on this committee 17 years, and I, together with many others, notably my dear friend and late chairman, Senator Chafee, addressed this issue. Our committee is rich in the history of focusing revenue from the highway trust fund on effective safety programs. It goes back through many chairmen and members of the committee.

With jurisdiction over the largest share of the highway trust fund, our committee has had the vision to tackle important national safety problems. Regrettably, I report to you that the recent markup of the committee on the proposed successor to the TEA–21 legislation, which we will take up next year, does provide more funding to help build safer roads—that is a step forward—but it does not have, in my judgment, that provision which represents a step up from what we did in TEA–21, that provision that would represent a recognition for the President's initiative. He has taken a decidedly strong initiative to increase the use of seatbelts. It is absent from the bill, and that is why, I say respectfully to Chairman INHOFE and others on that committee, we need a provision to strengthen and to move forward the position of the Congress on the issue of increased use of safety belts. That is the purpose of this legislation.

It is just unfortunate, but those with reckless intent quickly disregard responsible behavior and drive unbelted at excessive speeds and many times with the use of alcohol. So no increased dollars for improved road engineering, which is in this bill, can defy in many instances and the type of personal conduct that results in reckless behavior. It is as simple as that.

Our automobiles now come equipped with crash avoidance technologies and are more crashworthy than ever before, but these advances are only part of the solution.

In repeated testimony before the Environment and Public Works Committee, from the administration, our States, safety groups, and the highway insurance industry, we are told that three main causes of traffic deaths and injuries are unbelted drivers, speed, and alcohol.

The formula we have devised in this legislation does have a reduction in the amount a State receives under this proposed bill that we will consider next year when they fail to achieve the 90 percent safety belt use rate. It is as simple as that. But the formula is patterned directly after the law that is on the books now with respect to the .08 legal blood alcohol content level.

The net effect of this legislation is simply to recognize we are asking that the same type of sanction policy with regard to one of the three major causes of death—alcohol—be equated to a second cause of death and injury, and that is absence of the use of seatbelts, bringing into parallel two of the three principal causes of death and injury on today's highways.

The administration put forward an innovative safety belt program, as I said, under the leadership of the President that was a major component of their new core transportation program, the Highway Safety Improvement Program. Regrettably, this recommendation is not included in the bill that will come before my committee next year as a consequence of the markup seeking reauthorization of TEA–21.

The proposed reauthorization bill also does not include the current program, the Safety Belt Incentive Grant program, that we even had in the previous highway bill, of which I was primarily one of the authors. Not only are we not going forward, but in a sense we are stepping backwards. I just cannot understand how we can, as a body, not observe our responsibility to do what we can to provide the necessary incentive to the States to take these steps.

Mr. President, 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. 1993

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Highway Safety Act of 2003''.

SEC. 2. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

(a) SAFETY IMPROVEMENT.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:

''§ 148. Highway safety improvement program

''(a) DEFINITIONS.—In this section:

''(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.

''(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

''(A) IN GENERAL.—The term 'highway safety improvement project' means a project described in the State strategic highway safety plan that—

''(i) corrects or improves a hazardous road location or feature; or

''(ii) addresses a highway safety problem.

''(B) INCLUSIONS.—The term 'highway safety improvement project' includes a project for—

''(i) an intersection safety improvement;

''(ii) pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);

''(iii) installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians;

''(iv) installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents;

''(v) an improvement for pedestrian or bicyclist safety;

''(vi)(I) construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings;

''(II) construction of a railway-highway crossing safety feature; or

''(III) the conduct of a model traffic enforcement activity at a railway-highway crossing;

''(vii) construction of a traffic calming feature;

''(viii) elimination of a roadside obstacle;

''(ix) improvement of highway signage and pavement markings;

''(x) installation of a priority control system for emergency vehicles at signalized intersections;

''(xi) installation of a traffic control or other warning device at a location with high accident potential;

''(xii) safety-conscious planning;

''(xiii) improvement in the collection and analysis of crash data;

''(xiv) planning, equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;

''(xv) installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators;

''(xvi) the addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife; or

''(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.

''(3) PRIMARY SAFETY BELT LAW.—The term 'primary safety belt law' means a law that authorizes a law enforcement officer to issue a citation for the failure of the operator of, or any passenger in, a motor vehicle to wear a safety belt as required by State law, based solely on that failure and without regard to whether there is any other violation of law.

''(4) SAFETY PROJECT UNDER ANY OTHER SECTION.—

''(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

''(B) INCLUSION.—The term 'safety project under any other section' includes a project to—

''(i) promote the awareness of the public and educate the public concerning highway safety matters; or

''(ii) enforce highway safety laws.

''(5) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

''(6) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—

''(A) is developed after consultation with—

''(i) a highway safety representative of the Governor of the State;

''(ii) regional transportation planning organizations, if any;

''(iii) representatives of major modes of transportation;

''(iv) local traffic enforcement officials;

''(v) persons responsible for administering section 130 at the State level;

''(vi) representatives conducting Operation Lifesaver;

''(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

''(viii) motor vehicle administration agencies; and

''(ix) other major State and local safety stakeholders;

''(B) analyzes and makes effective use of State, regional, or local crash data;

''(C) addresses engineering, management, operation, education, enforcement, and emergency services elements of highway safety as key factors in evaluating highway projects;

''(D) considers safety needs of, and high-fatality segments of, public roads;

''(E) considers the results of State, regional, or local transportation and highway safety planning processes in existence as of the date of enactment of this section;

''(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

''(G) is approved by the Governor of the State or a responsible State agency; and

''(H) is consistent with the requirements of section 135(f).

''(b) PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

''(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

''(c) ELIGIBILITY.—

''(1) IN GENERAL.—To receive funds under this section, a State shall have in effect a State highway safety improvement program under which the State—

''(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

''(B) produces a program of projects or strategies to reduce identified safety problems; and

''(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements.

''(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

''(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

''(B) based on the analysis required by subparagraph (A), identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users;

''(C) adopt strategic and performance-based goals that—

''(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all roads and bridges on the Federal-aid system;

''(ii) focus resources on areas of greatest need; and

''(iii) are coordinated with other State highway safety programs;

''(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

''(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

''(ii) includes all roads and bridges on the Federal-aid system; and

''(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists, bicyclists, and pedestrians;

''(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

''(ii) identify opportunities for preventing the development of such hazardous conditions; and

''(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

''(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

''(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

''(d) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—A State may obligate funds apportioned to the State under this section to carry out—

''(A) any highway safety improvement project on any—

''(i) road or bridge on the Federal-aid system; or

''(ii) publicly owned bicycle or pedestrian pathway or trail; or

''(B) as provided in subsection (e), for other safety projects.

''(2) USE OF OTHER FUNDING FOR SAFETY.—

''(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

''(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

''(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

''(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

''(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

''(f) REPORTS.—

''(1) IN GENERAL.—A State shall submit to the Secretary a report that—

''(A) describes progress being made to implement highway safety improvement projects under this section;

''(B) assesses the effectiveness of those improvements; and

''(C) describes the extent to which the improvements funded under this section contribute to the goals of—

''(i) reducing the number of fatalities on roadways;

''(ii) reducing the number of roadway-related injuries;

''(iii) reducing the occurrences of roadway-related accidents;

''(iv) mitigating the consequences of roadway-related accidents; and

''(v) reducing the occurrences of roadway-railroad grade crossing accidents.

''(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

''(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—The Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.

''(h) USE OF FUNDS.—

''(1) PROJECTS UNDER SECTION 402.—For fiscal year 2005 and each fiscal year thereafter, 10 percent of the funds made available to a State under this section shall be obligated for projects under section 402, unless by October 1 of the fiscal year, the State—

''(A) has in effect a primary safety belt law; or

''(B) demonstrates that the safety belt use rate in the State is at least 90 percent.

''(2) WITHHOLDING.—

''(A) IN GENERAL.—For fiscal year 2007, the Secretary shall withhold 2 percent, and for each fiscal year thereafter, the Secretary shall withhold 4 percent, of the funds apportioned to a State under paragraphs (1), (3), and (4) of section 104(b) and section 144 if, by October 1 of that fiscal year, the State does not—

''(i) have in effect a primary safety belt law; or

''(ii) demonstrate that the safety belt use rate in the State is at least 90 percent.

''(B) RESTORATION.—If, within 3 years after the date on which funds are withheld from a State under subparagraph (A), the State has in effect a primary safety belt law or has demonstrated that the safety belt use rate in the State is at least 90 percent, the apportionment of the State shall be increased by the amount withheld.

''(C) LAPSE.—If, within 3 years after the date on which funds are withheld from a State under subparagraph (A), the State does not have in effect a primary safety belt law or has not demonstrated that the safety belt use rate in the State is at least 90 percent, the amount withheld shall lapse.''.

(2) ALLOCATIONS OF APPORTIONED FUNDS.—Section 133(d) of title 23, United States Code, is amended—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in the first sentence of subparagraph (A)—

(I) by striking ''subparagraphs (C) and (D)'' and inserting ''subparagraph (C)''; and

(II) by striking ''80 percent'' and inserting ''90 percent'';

(ii) by striking subparagraph (C);

(iii) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(iv) in subparagraph (C) (as redesignated by clause (iii)), by adding a period at the end; and

(D) in paragraph (4)(A) (as redesignated by subparagraph (B)), by striking ''paragraph (2)'' and inserting ''paragraph (1)''.

(3) CONFORMING AMENDMENTS.—

(A) Chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148 and inserting the following:

''148. Highway safety improvement program.''.

(b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Section 104(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting after ''Improvement program,'' the following: ''the highway safety improvement program,''; and

(2) by adding at the end the following:

''(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

''(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

''(i) 25 percent of the apportionments in the ratio that—

''(I) the total lane miles of Federal-aid highways in each State; bears to

''(II) the total lane miles of Federal-aid highways in all States.

''(ii) 40 percent of the apportionments in the ratio that—

''(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

''(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

''(iii) 35 percent of the apportionments in the ratio that—

''(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

''(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

''(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.''.

(c) ELIMINATION OF HAZARDS RELATING TO HIGHWAY FACILITIES.—

(1) FUNDS FOR PROTECTIVE DEVICES.—Section 130(e) of title 23, United States Code, is amended—

(A) in the heading, by striking ''PROTECTIVE DEVICES'' and inserting ''RAILWAY-HIGHWAY CROSSINGS'';

(B) by striking the first sentence and inserting the following:

''(1) IN GENERAL.—For each fiscal year, at least $200,000,000 of the funds authorized and expended under section 148 shall be available for the elimination of hazards and the installation of protective devices at railway-highway crossings.''; and

(C) by striking ''Sums authorized'' and inserting the following:

''(2) OBLIGATION.—Sums authorized''.

(2) BIENNIAL REPORTS TO CONGRESS.—Section 130(g) of title 23, United States Code, is amended in the third sentence—

(A) by inserting ''and the Committee on Commerce, Science, and Transportation,'' after ''Public Works''; and

(B) by striking ''not later than April 1 of each year'' and inserting ''every other year''.

(3) EXPENDITURE OF FUNDS; APPORTIONMENT.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

''(k) EXPENDITURE OF FUNDS; APPORTIONMENT.—Funds made available to carry out this section shall be—

''(1) available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g); and

''(2) apportioned in accordance with section 104(b)(5).''.

(d) TRANSITION.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), to qualify for funding under section 148 of title 23, United States Code (as amended by subsection (a)), a State shall develop and implement a State strategic highway safety plan as required by subsection (c) of that section not later than October 1 of the second fiscal year after the date of enactment of this Act.

(2) INTERIM PERIOD.—

(A) IN GENERAL.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(B) NO STRATEGIC HIGHWAY SAFETY PLAN.—If a State has not developed a strategic highway safety plan by October 1 of the second fiscal year after the date of enactment of this Act, but demonstrates to the satisfaction of the Secretary that progress is being made toward developing and implementing such a plan, the Secretary shall continue to apportion funds for 1 additional fiscal year for the highway safety improvement program under section 148 of title 23, United States Code, to the State, and the State may continue to obligate funds apportioned to the State under this section for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(C) PENALTY.—If a State has not adopted a strategic highway safety plan by the date that is 2 years after the date of enactment of this Act, funds made available to the State under section 1101(6) shall be redistributed to other States in accordance with section 104(b) of title 23, United States Code.

SECRETARY OF TRANSPORTATION
Washington, DC, November 12, 2003.

Hon. JAMES INHOFE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: With almost 43,000 people dying every year on our nation's highway, it is imperative that we do everything in our power to promote a safer transportation system. The Bush Administration's proposal to reauthorize surface transportation programs, the Safe, Accountable, Flexible and Efficient Transportation Equity Act of 2003 (SAFETEA), offers several bold and innovative approaches to address this crisis.

President Bush and I believe that increasing safety belt usage rates is the single most effective means to decrease highway fatalities and injuries. As a result, SAFETEA's new core highway safety program provides States with powerful funding incentives to increase the percentage of Americans who buckle up every time they get in an automobile. Every percentage point increase in the national safety belt usage rate saves hundreds of lives and millions of dollars in lost productivity.

Empirical evidence shows that the surest way for a State to increase safety belt usage is through the passage of a primary safety belt law. States with primary belt laws have safety belt usage rates that are on average eight percentage points higher than States with secondary laws. Recognizing that States may have other innovative methods to achieve higher rates of belt use, SAFETEA also rewards States that achieve 90% safety belt usage rates even if a primary safety belt law is not enacted. I urge you to consider these approaches as your Committee marks up reauthorization legislation.

While safety belts are obviously critical to reducing highway fatalities, so too is a data

driven approach to providing safety. Every State faces its own unique safety challenges, and every State must be given broad funding flexibility to solve those challenges. This is a central theme of SAFETEA, which aims to provide States the ability to use scarce resources to meet their own highest priority needs. Such flexibility is essential for States to maximize their resources, including the funds available under a new core highway safety program.

I look forward to working with you on these critically important safety issues as development of a surface transportation reauthorization bill progresses.

Sincerely yours,

NORMAN Y. MINETA.

Mr. DEWINE. Mr. President, let me first congratulate my colleague from Virginia, Senator WARNER, for the very fine statement he just made a moment ago about the bill that he and Senator CLINTON are introducing with regard to the primary seatbelt law. This is something I have been interested in for some time. I congratulate them for their very fine bill and Senator WARNER's very fine statement. He is absolutely correct. If we are serious about saving lives on our highways in this country, there really is nothing more important that we can do than to get our fellow citizens to buckle up.

We have made great progress in this area, but the fact that many of our States do not have a primary seatbelt law on the books costs us thousands and thousands of lives each year. As my colleague from Virginia so eloquently stated in this Chamber a few minutes ago, all the experts—everyone who knows anything about highway safety—will tell you that the most important thing that we could do and the easiest thing we could do would be to have every State of the Union tomorrow, instantly, have a primary seatbelt safety law.

That simply means if law enforcement, instead of having to wait for another type of violation before they could cite someone for not wearing a seatbelt could cite someone directly for not using a seatbelt, the use of seatbelts would dramatically increase in this country. That is what has happened in every single State that has had these laws enacted. Seatbelt use dramatically goes up almost overnight.

We know there is an inverse relationship between the use of seatbelts and auto fatalities. Thousands and thousands of Americans' lives would be saved every single year. I wanted to come to the floor this afternoon after I listened to my colleague's speech in my office. I wanted to thank him. He has been a real leader in the area of highway safety and this is certainly one more example of his leadership.

When we take up the highway safety bill next year, there are a number of highway safety initiatives on which I have been working. I intend to bring them to the floor and talk about them and offer them as amendments, offer them as initiatives. Frankly, there is nothing as important as what my colleague from Virginia has suggested.

I hope the Senate will take this very seriously. This is a great opportunity we will have to save thousands and thousands of lives every year. So I salute my colleague from Virginia.

By Mr. DASCHLE (for Mr. FEINGOLD):

S. 1994. A bill to amend part D of title XVIII of the Social security Act to strike the language that prohibits the Secretary of Health and Human Services from negotiating prices for prescription drugs furnished under the Medicare program; to the Committee on Finance.

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

● Mr. FEINGOLD. Mr. President, today I am introducing a bill that will fix one of the fundamental flaws in the new Medicare prescription drug benefit. The ''Efficiency in Government Health Care Spending Act'' will remove language included in the new benefit that prohibits the Medicare program from negotiating prescription drug prices with manufacturers. The new Medicare prescription drug benefit does far too little to bring down the prices of prescription drugs. In fact, it actually takes away one of the best tools the Medicare program could use in bringing down prescription drug prices by denying the government the ability to negotiate price discounts on behalf of Medicare beneficiaries. My bill will allow the Federal Government to take advantage of the purchasing power of the Medicare program Medicare, saving millions of taxpayers' dollars while reducing the costs of prescription drugs for Medicare beneficiaries.

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

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

S. 1994

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Efficiency in Government Health Care Spending Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Prohibiting the Federal Government from negotiating prescription drug prices with manufacturers fails to take advantage of the purchasing power of the Medicare program.

(2) Negotiating prescription drug prices can reduce the costs of prescription drugs for both the Medicare program and taxpayers.

(3) A 2002 study by the inspector general of the Department of Health and Human Services found that—

(A) both the Medicare program and the beneficiaries of the Medicare program continually pay too much for medical equipment and medical supplies; and

(B) if the Medicare program paid the same prices for 16 health care supplies as the Department of Veterans Affairs, which directly negotiates prices with manufacturers, pays for those supplies, the Federal Government could save $958,000,000 each year.

SEC. 3. ELIMINATION OF PROHIBITION OF NEGOTIATION OF PRICES.

(a) REPEAL OF NONINTERFERENCE PROVISION.—

(1) IN GENERAL.—Subsection (i) of section 1860D–11 of the Social Security Act, as added by section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, is repealed.

(2) CONFORMING AMENDMENT.—Subsection (j) of section 1860D–11 of the Social Security Act, as added by section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, is redesignated as subsection (i).

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 101 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.●

By Mr. DASCHLE (for Mr. FEINGOLD):

S. 1995. A bill to amend title XVIII of the Social Security Act to repeal the MA Regional Plan Stabilization Fund; to the Committee on Finance.

● Mr. FEINGOLD. Mr. President, today I am introducing a bill that will remove the multi-billion dollar ''stabilization fund'' from the new Medicare prescription drug benefit. This stabilization fund is in essence a slush fund that gives billions of dollars to private insurance companies. This is not an efficient use of taxpayers' dollars. In fact, it's not clear why it's even necessary. If private managed care plans are successful in bring costs down, as backers of the new Medicare bill expect, and if seniors supposedly want to choose private plans, as backers of the new Medicare bill believe, then why should American taxpayers pay private companies more money to get more people to enroll in them?

We should not be subsidizing private health insurance companies in the name of Medicare reform. It is fiscally irresponsible, in a time of record deficits, to use taxpayers' dollars as a giveaway to private insurance companies. By removing this multi-billion slush fund, my bill will save the American taxpayers billions of dollars. Many analysts predict that the new Medicare prescription drug benefit will surpass the $400 billion budgeted for it. We need to look carefully at how we spend Medicare dollars, so that we can ensure that the program remains solvent for future generations.

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

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

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

S. 1995

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

SECTION 1. REPEAL OF MA REGIONAL PLAN STABILIZATION FUND.

(a) PURPOSE OF SECTION.—The purpose of this section is to reduce the Federal budget deficit and to more efficiently use taxpayer dollars in health care spending.

(b) REPEAL OF MA REGIONAL PLAN STABILIZATION FUND.—Section 1858 of the Social Security Act, as added by section 221(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, is amended—

(1) by striking subsection (e);

(2) by redesignating subsections (f), (g), and (h) as subsections (e), (f), and (g), respectively; and

(3) in subsection (e), as so redesignated, by striking ''subject to subsection (e),''.

(c) CONFORMING AMENDMENT.—Section 1851(i)(2) of the Social Security Act (42 U.S.C. 1395w–21(i)(2)), as amended by section 221(d)(5) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, is amended by striking''1858(h)'' and inserting ''1858(g)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.●

By Mr. DASCHLE:

S. 1996. A bill to enhance and provide to the Oglada Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program; to the Committee on Indian Affairs.

Mr. DASCHLE. Mr. President, today I am introducing the Oglala Sioux Tribe Angostura Irrigation Project Rehabilitation and Development Act. I have worked with the leadership of the Oglala Sioux Tribe to develop this legislation, which is intended to benefit the Lakota people by restoring critical water resources and promoting economic development on the Pine Ridge Indian Reservation.

The Angostura Unit of the Bureau of Reclamation was first authorized by Congress under the Water Conservation and Utilization Act of 1939, and later continued under the Flood Control Act of 1944, otherwise known as the Pick-Sloan Missouri River Basin Project. The program consisted primarily of building the six mainstem dams on the Missouri River, to be operated by the U.S. Army Corps of Engineers, along with several Bureau-operated irrigation and water development projects. The Angostura Unit was designed to provide irrigation to 12,218 acres of farm and ranch land in the Angostura Irrigation District, as well as flood control, fish, and wildlife benefits.

Tribes in South Dakota existed long before the creation of the Bureau of Reclamation or the implementation of the water development projects in South Dakota today. Tribes therefore have a vested interest in the operation of these projects. While the projects have been helpful in meeting their authorized goals, they also contribute to adverse economic and environmental conditions on tribal reservations. In particular, the Missouri River reservoirs managed by the Corps led to the taking of thousands of acres of fertile river land from Indian tribes, and with that taking, the tribes lost valuable natural resources.

Federal agencies were directed through subsequent acts to provide for the rehabilitation of the lost fish and wildlife habitat and to generally improve conditions on the reservations, but results were slow in coming, and often never materialized. Legislation was enacted several years ago to finally address some of these issues, but much more remains to be done before South Dakota's tribes realize the benefits that Bureau of Reclamation and Corps projects have provided other parts of the state.

In addition to the irrigation benefits the Angostura Unit provides to ranchers and agricultural producers in the area, a substantial recreation industry has developed around the reservoir, including boating and fishing. However, members of the Oglala Sioux on the Pine Ridge Indian Reservation have not seen equal economic benefits from the Angostura Unit as those experienced from the recreation and irrigation in Fall River County. The Cheyenne River forms the northern boundary of the reservation, which is just 20 miles downstream from the reservoir, and is an important natural resource for the tribe. The river is essential to the survival of riparian vegetation, traditional medicinal plants, fish, and wildlife habitat. The impoundment of water in the reservoir has curbed the Cheyenne River's natural flow, and water quality is reduced. This, coupled with the worst drought the region has seen in a decade, severely affects water resources on the reservation.

The Oglala Sioux Tribe's leadership has long had a desire to address these problems, and this legislation is an important manifestation of their effort. During revision of the Angostura Unit's water management plan in 2002, the Bureau of Reclamation considered a variety of alternatives for future operations, but the tribe felt their concerns about the economic and environmental effects the reservoir has on the reservation were not adequately addressed. One alternative considered by the Bureau of Reclamation during this review would return natural flows to the Cheyenne River, and would provide more water downstream for the tribe and would improve reservation conditions. The Bureau took a different approach, however—one that calls for improved irrigation operations and a more efficient distribution of water resources in the irrigation district. These improvements would help free up additional water resources and hopefully lead to improved conditions on the Cheyenne River that would benefit the tribe.

The Angostura Irrigation Project Rehabilitation and Development Act would authorize the efficiency improvements proposed by the Bureau of Reclamation, benefitting both existing water users and the tribe. The legislation also would authorize the creation of a trust fund to compensate the tribe for the economic impacts and lost natural resources caused by the operation of the Angostura Unit. This trust fund will be used by the tribe to promote economic development, improve infrastructure, and enhance the education, health, and general welfare of the Oglala Lakota people. This dual track will both help ensure continued and efficient operation of the Angostura Unit and the Angostura Irrigation District, while helping to mitigate the problems facing the Oglala Sioux Tribe, and providing the tribe with the natural and financial resources it needs to plan for the future and improve the quality of life for all tribal members.

This legislation is just one small, yet important, step toward ensuring that U.S. natural resource policies are fair to American Indians, and I look forward to working with my colleagues to enact it.

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. 1996

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Oglala Sioux Tribe Angostura Irrigation Project Rehabilitation and Development Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Congress approved the Pick-Sloan Missouri River basin program by passing the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (33 U.S.C. 701–1 et seq.)—

(A) to promote the economic development of the United States;

(B) to provide for irrigation in regions north of Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the Angostura Unit—

(A) is a component of the Pick-Sloan program; and

(B) provides for—

(i) irrigation of 12,218 acres of productive farm land in the State; and

(ii) substantial recreation and fish and wildlife benefits;

(3) the Commissioner of Reclamation has determined that—

(A) the national economic development benefits from irrigation at the Angostura Unit total approximately $3,410,000 annually; and

(B) the national economic development benefits of recreation at Angostura Reservoir total approximately $7,100,000 annually;

(4) the Angostura Unit impounds the Cheyenne River 20 miles upstream of the Pine Ridge Indian Reservation in the State;

(5)(A) the Reservation experiences extremely high rates of unemployment and poverty; and

(B) there is a need for economic development on the Reservation;

(6) the national economic development benefits of the Angostura Unit do not extend to the Reservation;

(7) the Angostura Unit may be associated with negative affects on water quality and riparian vegetation in the Cheyenne River on the Reservation;

(8) rehabilitation of the irrigation facilities at the Angostura Unit would—

(A) enhance the national economic development benefits of the Angostura Unit; and

(B) result in improved water efficiency and environmental restoration benefits on the Reservation; and

(9) the establishment of a trust fund for the Oglala Sioux Tribe would—

(A) produce economic development benefits for the Reservation comparable to the benefits produced at the Angostura Unit; and

(B) provide resources that are necessary for restoration of the Cheyenne River corridor on the Reservation.

SEC. 3. DEFINITIONS.

In this Act:

(1) ANGOSTURA UNIT.—The term ''Angostura Unit'' means the irrigation unit of the Angostura irrigation project developed under the Act of August 11, 1939 (16 U.S.C. 590y et seq.).

(2) FUND.—The term ''Fund'' means the Oglala Sioux Tribal Development Trust Fund established by section 201(a).

(3) PICK-SLOAN PROGRAM.—The term ''Pick-Sloan program'' means the Pick-Sloan Missouri River basin program approved under the Act of December 22, 1944 (commonly known as the ''Flood Control Act of 1944'') (33 U.S.C. 701–1 et seq.).

(4) PLAN.—The term ''plan'' means the development plan developed by the Tribe under section 201(f).

(5) RESERVATION.—The term ''Reservation'' means the Pine Ridge Indian Reservation in the State.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) STATE.—The term ''State'' means the State of South Dakota.

(8) TRIBAL COUNCIL.—The term ''Tribal Council'' means the governing body of the Tribe.

(9) TRIBE.—The term ''Tribe'' means the Oglala Sioux Tribe of South Dakota.

TITLE I—REHABILITATION

SEC. 101. REHABILITATION OF FACILITIES AT ANGOSTURA UNIT.

The Secretary may carry out the rehabilitation and improvement of the facilities at the Angostura Project described in the report entitled ''Angostura Unit Contract Negotiation and Water Management Final Environmental Impact Statement'', dated August 2002.

SEC. 102. DELIVERY OF WATER TO PINE RIDGE INDIAN RESERVATION.

The Secretary shall provide for—

(1) to the maximum extent practicable, the delivery of water saved through the rehabilitation and improvement of the facilities of the Angostura Unit to the Pine Ridge Indian Reservation; and

(2) the use of that water for purposes of environmental restoration on the Pine Ridge Indian Reservation.

SEC. 103. EFFECT ON OTHER LAW.

Nothing in this title affects—

(1) any reserved water rights or other rights of the Tribe;

(2) any service or program to which, in accordance with Federal law, the Tribe, or an individual member of the Tribe, is entitled; or

(3) any water rights in existence on the date of enactment of this Act held by any person or entity.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

TITLE II—DEVELOPMENT

SEC. 201. OGLALA SIOUX TRIBAL DEVELOPMENT TRUST FUND.

(a) OGLALA SIOUX TRIBAL DEVELOPMENT TRUST FUND.—There is established in the Treasury of the United States a fund to be known as the ''Oglala Sioux Tribal Development Trust Fund'', consisting of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit in the Fund—

(1) such sums as the Secretary of the Treasury, in consultation with the Secretary, the Secretary of Health and Human Services, and the Tribal Council, are necessary to carry out development under this title; and

(2) the amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if that amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—

(1) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals.

(2) ACQUISITION OF OBLIGATIONS.—Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(3) INTEREST.—The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall transfer the aggregate amount of interest deposited into the Fund for the fiscal year to the Secretary for use in accordance with paragraph (3).

(2) AVAILABILITY.—Each amount transferred under paragraph (1) shall be available without fiscal year limitation.

(3) PAYMENTS TO TRIBE.—

(A) IN GENERAL.—The Secretary shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Tribe, as such payments are requested by the Tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Tribe has adopted a plan under subsection (f).

(C) USE OF PAYMENTS BY TRIBE.—The Tribe shall use the payments made under subparagraph (B) only for carrying out projects and programs under the plan prepared under subsection (f).

(e) LIMITATION ON TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury shall not transfer or withdraw any amount deposited under subsection (b).

(f) DEVELOPMENT PLAN.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the governing body of the Tribe shall prepare a plan for the use of the payments to the Tribe under subsection (d).

(2) CONTENTS.—The plan shall provide for the manner in which the Tribe shall expend payments to the Tribe under subsection (d) to promote—

(A) economic development;

(B) infrastructure development;

(C) the educational, health, recreational, and social welfare objectives of the Tribe and members of the Tribe; or

(D) any combination of the activities described in subparagraphs (A) through (C).

(3) PLAN REVIEW AND REVISION.—

(A) IN GENERAL.—The Tribal Council shall make available for review and comment by the members of the Tribe a copy of the plan before the plan becomes final, in accordance with procedures established by the Tribal Council.

(B) UPDATING OF PLAN.—

(i) IN GENERAL.—The Tribal Council may, on an annual basis, revise the plan to update the plan.

(ii) REVIEW AND COMMENT.—In revising the plan, the Tribal Council shall provide the members of the Tribe opportunity to review and comment on any proposed revision to the plan.

(C) CONSULTATION.—In preparing the plan and any revisions to update the plan, the Tribal Council shall consult with the Secretary and the Secretary of Health and Human Services.

(4) AUDIT.—

(A) IN GENERAL.—The activities of the Tribe in carrying out the plan shall be audited as part of the annual single-agency audit that the Tribe is required to prepare pursuant to the Office of Management and Budget circular numbered A–133.

(B) DETERMINATION BY AUDITORS.—The auditors that conduct the audit under subparagraph (A) shall—

(i) determine whether funds received by the Tribe under this section for the period covered by the audit were expended to carry out the plan in a manner consistent with this section; and

(ii) include in the written findings of the audit the determination made under clause (i).

(C) INCLUSION OF FINDINGS WITH PUBLICATION OF PROCEEDINGS OF TRIBAL COUNCIL.—A copy of the written findings of the audit described in subparagraph (A) shall be inserted in the published minutes of the Tribal Council proceedings for the session at which the audit is presented to the Tribal Council.

(g) PROHIBITION OF PER CAPITA PAYMENTS.—No portion of any payment made under this title may be distributed to any member of the Tribe on a per capita basis.

SEC. 202. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

No payment made to the Tribe under this title shall result in the reduction or denial of any service or program with respect to which, under Federal law—

(1) the Tribe is otherwise entitled because of the status of the Tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of the Tribe is entitled because of the status of the individual as a member of the Tribe.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to pay the administrative expenses of the Fund.

By Mr. BYRD (for himself, Mr. BAYH, and Mr. ROCKEFELLER):

S. 1997. A bill to reinstate the safeguard measures imposed on imports of certain steel products, as in effect on December 4, 2003; to the Committee on Finance.

Mr. BYRD. Mr. President, last week, the Bush administration—in what has become its normal pattern—ignored the pleas of thousands of hardworking Americans. It lifted the steel tariffs it had promised the U.S. steel industry and imposed on foreign imports back in March of 2002.

Despite its earlier pledge to stand by America's steelworkers, the White House, in typical fashion, decided to turn its back on our highest valued workers and most vulnerable retirees. In a fit of pique and hard-hearted hubris, the White House decided to lift U.S. tariffs on foreign steel imports 15

months ahead of time, instead of letting the tariffs stay in place until March 2005, as is permitted by U.S. law.

Why? Why would the White House betray America's steel industry—the backbone of America's industrial base—particularly during this time of war? Of national emergency? No. Because the President feared retaliation from America's trading partners, he quivered at the threat that they would retaliate against U.S. exports if he did not lift the 201 tariffs. He cowered in the face of exactly those nations whose steel exports to the United States have driven 42 U.S. steel companies to their knees and into bankruptcy. His resolve collapsed in the face of retaliatory threats from America's most virulent competitors, whose illegal trade against the United States has already cost nearly 50,000 steelworkers their jobs.

America's foreign trade opponents gambled that this President lacked the resolve to stand up to them and to the WTO. Do you know? They were right. They were sadly correct.

But this President, George W. Bush, did not need to cave like a ''weak willy'' in the face of belligerent foreign bullies. Instead, he could have invoked Article XXI of the GATT, a viable trade tool that has been legitimately and successfully employed by the United States in the past to exempt itself from the GATT, now the WTO, in a time of war or national emergency. The President on July 31, 2003, formally proclaimed our Nation to be in a continued state of emergency. As a result of the President's own misguided and ill-advised actions, we remain engaged militarily in Iraq.

On July 31, 2003, President Bush formally declared that, in accordance with section 202(d) of the National Emergencies Act, he was ''continuing for one year the national emergency with respect to Iraq.'' We also continue to face an ongoing war against terrorism, both here at home and abroad.

So, President Bush had—and has—ample authority to invoke a provision of GATT 1994, negotiated by the United States and available to all WTO Members, that would permit him to exempt protections for the U.S. steel industry from retaliation by foreign countries.

But this President has so far lacked the foresight or the fortitude to take that step. Confronted with real threats of economic retaliation by determined competitors, the President folds like a house of cards astride the San Andreas fault.

That is why, today, I am introducing a bill that will do what the President refused to do. It will reinstate the 201 relief and reimpose the 201 tariffs against foreign steel imports. Under my bill, the 201 tariffs will be put back in place to stop foreign import surges, just as they did before the President so ill-advisedly lifted the tariffs last Thursday. And the tariffs will remain in place through March 5, 2005.

This administration should not have been bullied into abandoning the U.S. steel industry. Our steel industry is key to the national economic security of our Nation. Without steel, we cannot guarantee America's national security. Without steel, we could not have rebuilt after September 11. And I am not the only one who thinks that steel is integral to America's economic and national security. Just a few days before that fateful September day, on August 26, 2001, President Bush told America's steelworkers: ''If you're worried about the security of the country and you become over reliant upon foreign sources of steel, it can easily affect the capacity of our military to be well supplied. Steel is an important jobs issue; it is also an important national security issue.''

With an annual take deficit of almost $500 billion, Americans have a right to expect that international trade rules with work for them; not against them. They also have a right to know that the United States can respond as it must to the type of trade crises that have been suffered by America's steel industry for years.

There was absolutely no reason to lift the steel 201 tariffs. They are fully consistent with both U.S. law and our international agreements—regardless of the view of the WTO. The purpose of 201 relief is to give the domestic industry time to adjust to import competition. Our valiant steel industry is doing just that by pursuing unprecedented restructuring and new investment. Since the 201 tariffs were imposed, flat-rolled steel producers alone have invested more than $3 billion to enhance their productivity.

Critics of the 201 relief have been proved wrong on every significant fact concerning that relief. They said that once the tariffs were imposed, steel prices would go through the roof. Yet, prices have risen only modestly, and much less than abroad. The critics claimed that U.S. steel companies would do nothing to improve their competitiveness. But our Nation is witnessing the most dramatic restructuring in the industry's history. The critics also claimed that the tariffs would be bad for the U.S. economy, but the non-partisan U.S. International Trade Commission, ITC, recently found that the potential costs are minuscule—only about 2 percent of what Americans spend each month at McDonald's—and not even a drop in the bucket compared to the value we gain by restoring a critical U.S. industry to long-term competitiveness.

Other nations' actions in this Section 201 dispute have been truly disgraceful. The European Union originally threatened to retaliate against the United States immediately upon the President's application of the safeguard measures in March 2002. In the end, it hesitated. But its threat was sufficient to extort from the administration nearly unlimited exclusions from the tariffs to benefit foreign producers.

Acquiescing to this type of bullying jeopardizes the future of the U.S. steel industry, and it undermines the integrity of, and support for, the entire international trading system. Americans cannot be expected to support a system that works against them, rather than for them.

By lifting the tariffs, the administration is allowing Brazil, the European Union, Japan, and other nations, once again, to flood the U.S. market with imports. The Bush administration could have stood up for America's steelworkers like those at Weirton, WV, and Wheeling-Pittsburgh Steel in West Virginia, and demanded that other countries respect the legitimate rights of the United States in the world trading system. But this administration chose to back down, to lose face, to sit back and watch, once more, while thousands of additional U.S. steel jobs are destroyed by wave after wave of foreign imports.

The administration does not seem to care if the U.S. steel industry is destroyed at a time of war and in the midst of a national emergency. President Bush did not even care enough to personally inform the U.S. steel industry, its workers, and their families of his decision to lift the tariffs. No!! Instead, he sent a trade negotiator, Mr. Zoellick, to do his dirty work. Ambassador Zoellick had the audacity to tell us that the tariffs are ''no longer necessary.'' No longer necessary. And why did he say that they are no longer necessary? They are no longer necessary because, he said, ''these safeguard measures have achieved their purpose.''

The only purpose that I can see in this decision to shut the tariff program down is to succumb to threats and demands from abroad. The only effect will be the loss of more steel manufacturing jobs here at home.

On October 27, 2000, Mr. DICK CHENEY—do you know him? He is now Vice President of the United States—just a few days before the elections he came to Weirton, WV, to campaign for the Bush-Cheney ticket. During that visit, Mr. CHENEY forcefully pledged to help America's steelworkers. He said, ''We will never lie to you. If our trading partners violate our trading laws, we will respond swiftly and firmly.''

Promise made, promise broken. Unfortunately, like so many commitments this administration has made, its pledge to help America's steel industry got off to a headline-grabbing start, but has now been discarded, out of the glare of the campaign spotlight.

So now, only 3 years after Mr. CHENEY's campaign-season vow of honesty to America's steelworkers, this White House has taken an axe to the 201 tariffs and betrayed the trust of thousands of American families whose paychecks depend on the U.S. steel industry.

Mr. President, the Bush White House has absolutely failed the working families across this country. This White House has traded the best interests of the American people for the big special interests of corporate campaign contributors. It is no surprise that the Bush Administration would turn its back on steelworkers.

When the Bush-Cheney ticket needed West Virginia's votes in 2000, it pledged to help our steel industry. At first, it appeared as though the administration would follow through on that promise. The White House applied the steel tariffs, for which West Virginia was thankful and for which I and other Senators congratulated, commended and thanked the administration. But then the President exempted import after import from those tariffs. Now the President has eliminated the tariffs completely.

The Bush White House may have forgotten the promise made to the steel industry in West Virginia, but thousands of West Virginians and other steelworkers across the Nation will not forget. The recognize a fair-weather friend when they seen one.

By Mr. BINGAMAN (for himself, Ms. SNOWE, Mr. SCHUMER, Mr. LEAHY, Mrs. CLINTON, Mr. NELSON of Nebraska, Mrs. LINCOLN, Mr. HAGEL, Mr. JEFFORDS, Mr. DOMENICI, Mr. HARKIN, and Mr. PRYOR):

S. 1998. A bill to amend title 49, United States Code, to preserve the essential air service program; to the Committee on Commerce, Science, and Transportation.

Mr. BINGAMAN. Mr. President, I rise today to introduce the bipartisan Essential Air Service Preservation Act of 2003. I am pleased to have my colleague Senator SNOWE as the principal cosponsor of the bill. Senator SNOWE has been a long-time champion of commercial air service in rural areas, and I appreciate her continued leadership on this important legislation. Senators SHUMER, LEAHY, CLINTON, BEN NELSON, LINCOLN, HAGEL, JEFFORDS, DOMENICI, and HARKIN, are also cosponsors of the bill.

Congress established the Essential Air Service Program in 1978 to ensure that communities that had commercial air service before airline deregulation could continue to receive scheduled service. Without EAS, many rural communities would have no commercial air service at all.

Our bill is very simple. It preserves Congress's intent in the Essential Air Service program by repealing a provision in the FAA reauthorization bill that would for the first time require communities to pay for their commercial air service.

Congress has already barred the Department of Transportation from implementing any cost sharing requirements on Essential Air Service communities for one year. This bill would now make the ban permanent. I believe that implementing any mandatory cost sharing is the first step in the total elimination of scheduled air service for many rural communities.

It is indeed a sad commentary on this Congress that my colleagues and I have to introduce this bill at all. Time and again Congress has gone on record opposing mandatory cost sharing for EAS communities, yet it keeps coming back.

In June, during consideration of the FAA reauthorization bill, Senator INHOFE and I, with 13 bipartisan cosponsors, offered an amendment that struck out a provision in that bill imposing mandatory cost sharing on some EAS communities.

I was pleased the full Senate agreed and voted to eliminate mandatory cost sharing from the FAA reauthorization bill. In parallel, the full House of Representatives adopted a similar amendment to the FAA bill. Thus, the bills that were sent to conference required no cost sharing for EAS communities.

Most students of government would tell you that when a majority of both houses of Congress have voted against a particular measure, the conferees couldn't arbitrarily put it back in. Well, they did. In another example of this Congress's secret back room dealing, the conferees excluded the minority members, flagrantly ignored the will of the majority in the House and the Senate, and restored the very cost-sharing language both houses one month before had voted to reject. I believe adding this extraneous and objectionable provision was an egregious violation of the conference process.

When cost sharing showed up in the FAA conference report, Congress, with bipartisan support, stopped the Department of Transportation from implementing the measure for one year by barring the use of 2004 appropriations for that purpose. The bill we are introducing today permanently repeals the mandatory cost-sharing requirements that the conferees reinserted into the FAA reauthorization bill after both the House and Senate had voted not to include them. I hope both houses of Congress will again do the right thing by passing our bill.

All across America, small communities face ever-increasing hurdles to promoting their economic growth and development. Today, many rural areas lack access to interstate or even four-lane highways, railroads or broadband telecommunications. Business development in rural areas frequently hinges on the availability of scheduled air service. For small communities, commercial air service provides a critical link to the national and international transportation system.

The Essential Air Service Program currently ensures commercial air service to over 100 communities in 34 states. EAS supports an additional 33 communities in Alaska. Because of increasing costs and the current financial turndown in the aviation industry, particularly among commuter airlines, about 28 additional communities have been forced into the EAS program since the terrorist attacks in 2001.

In my State of New Mexico, five cities currently rely on EAS for their commercial air service. The communities are Clovis, Hobbs, Carlsbad, Alamogordo and my hometown of Silver City. In each case commercial service is provided to Albuquerque, the State's business center and largest city.

I believe this ill-conceived proposal requiring cities to pay to continue to have commercial air service could not come at a worse time for small communities already facing depressed economies and declining tax revenues.

As I understand it, the mandatory cost-sharing requirements in the FAA reauthorization bill could affect communities in as many as 22 states. Based an analyses by my staff, the individual cities that may be affected are as follows:

Alabama—Muscle Shoals; Arizona—Prescott, Kingman; Arkansas—Hot Springs, Harrison, Jonesboro; Colorado—Pueblo; Georgia—Athens; Iowa—Fort Dodge, Burlington; Kansas—Salina; Kentucky—Owensboro; Maine—Augusta, Rockland; Michigan—Iron Mt.; Mississippi—Laurel; Nebraska—Norfolk; New Hampshire—Lebanon; New Mexico—Hobbs, Alamogordo, Clovis; New York—Saranac Lake, Watertown, Jamestown, Plattsburgh; Oklahoma—Ponca City, Enid; Pennsylvania—Johnstown, Oil City, Bradford, Altoona; South Dakota—Brookings, Watertown; Tennessee—Jackson; Texas—Victoria; Vermont—Rutland; Washington—Moses Lake.

As I see it, the choice here is clear: If we do not preserve the Essential Air Service Program today, we could soon see the end of all commercial air service in rural areas. The EAS program provides vital resources that help link rural communities to the national and global aviation system. Our bill will preserve the essential air service program and help ensure affordable, reliable, and safe air service remains available in rural America. Congress is already on record opposing mandatory cost sharing. I hope all Senators will once again join us in opposing this attack on rural America.

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. 1998

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Essential Air Service Preservation Act of 2003''.

SEC. 2. REPEAL OF EAS LOCAL PARTICIPATION PROGRAM.

(a) IN GENERAL.—Subchapter II of chapter 417 of title 49, United States Code, is amended by striking section 41747, and such title shall be applied as if such section 41747 had not been enacted.

(b) CONFORMING AMENDMENT.—The analysis for subchapter II of chapter 417 of title 49, United States Code, is amended by striking the item relating to section 41747.

By Mr. DASCHLE (for himself, Ms. STABENOW, Mr. GRAHAM of Florida, Mr. KENNEDY, Mr. PRYOR, Mr. DORGAN, Mrs. BOXER, Mr. LAUTENBERG, Mr. BINGAMAN, Ms. MIKULSKI, Mr. JOHNSON, Mr. SCHUMER, Mr. KOHL, Ms. CANTWELL, and Mr. ROCKEFELLER):

S. 1999. A bill to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for medicare prescription drugs; to the Committee on Finance.

Mr. DASCHLE. Mr. President, yesterday, the President signed the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. But the name of that Act is completely misleading. In fact, the Act fundamentally damages the successful and popular Medicare program—a long-term Republican goal. And this Act does more to ensure that drug prices remain high than it does to assist beneficiaries in paying for their drugs.

Why? Because drug companies want it that way. Republicans with financial ties to the industry are protecting drug company interests over the interests of seniors and people with disabilities.

America's seniors pay the highest drug prices in the world, even though American taxpayers subsidize the research that produces many of those drugs. The Medicare bill signed by the President squanders our chances of remedying that inequity. Not only does the bill effectively prohibit the reimportation of more affordable drugs from other countries, it actually prohibits Medicare from using its tremendous bargaining power to ensure that beneficiaries pay lower prices and that our scant resources are most effectively used.

Today, Senate Democrats are siding with the seniors. We are introducing legislation that would repeal the provision barring Medicare from negotiating for lower prices. The Medicare Prescription Drug Price Reduction Act would give Medicare the authority to negotiate with drug companies to obtain the lowest possible prices for seniors and people with disabilities. House Democrats introduced a companion bill yesterday. Together, we will fight for the goal of giving Medicare beneficiaries the drug benefit and lower prices they deserve.

By Mrs. CLINTON:

S. 2003. A bill to amend the Public Health Service Act to promote higher quality health care and better health by strengthening health information, information infrastructure, and the use of health information by providers and patients; to the Committee on Finance.

Mrs. CLINTON. Mr. President, today, I am introducing a bill that seeks to begin a dialogue on one of the most important yet neglected aspects of our health care system—health care quality. this is an enormous issue that affects every single one of us who has ever needed medical care, and it affects all taxpayers because quality care has such potential to avoid waste and save millions of dollars in health care costs. I have raised many of these ideas as amendments in other contexts, such as the Medicare debate on S. 1, and the debate over S. 720, the Patient Safety and Quality Improvement Act of 2003. I intend to continue working with my colleagues on improving these ideas and proposing additional concepts. But with this bill today, I seek to put forward a package of ideas, provoke conversation, and present this as a first step in making quality a focus of my health care efforts next year. My goal with these efforts is to both improve quality and outcomes, and reduce costs by encouraging care that is more effective.

There is no reason why we cannot achieve this. We have the most advanced medical system in human history—the finest medical institutions, the newest treatments, the best trained health care professionals. But in spite of the best intentions of clinicians and patients, our health care system is plagued with underuse, overuse, and misuse. currently, only about 50 percent of care that is known to be effective is provided, and the care given is supported by solid scientific evidence, and the pace of dissemination of new evidence is painfully slow. It may take up to 17 years for treatments found to be effective to become common practice.

Much of the overuse or misuse of health services stems from the fragmentation of our system. In a recent study in Santa Barbara, CA, 20 percent of lab tests and x-rays were conducted solely because previous results were unavailable. One in seven hospitalizations occurs because information is unavailable, and a shocking percentage of the time, physicians do not find patient information that had previously been recorded in a paper-based medical record.

Despite all of our Nation's medical advances, health quality is becoming even more endangered in some respects. Nursing care which is often shown to be a decisive factor for hospital patient outcomes, its in grave shortage, and a majority of U.S. physicians surveyed by the Commonwealth Fund perceive their ability to provide quality care as having worsened over the last 5 years.

Additionally, even as the quality of health care we purchase lags, our spending on inadequate and wasteful care is spiraling out of control. Premiums increased 13 percent last year, and health care costs are increasing at nearly 10 times the rate of inflation. To make matters worse, the public health system is straining to meet the challenges of bioterrorism or emerging infections, the number of uninsured Americans is rising, clinicians are leaving practice, and the older adult population is set to double by 2040.

The reason is not because doctors aren't trying hard enough, or hospitals are at fault. That we're able to get good health care at all is testament to the genius and heroism of doctors and nurses who deliver care, despite all the obstacles, despite every effort of the system to hinder them.

But what our medical system requires of providers is a little like asking pilots to routinely land planes without any information from the control tower. The best of them can do it—they could land a plane with one arm around their backs missing key information and confirmations, but why force them to do it? Why deny them critical information when it could be easily available? There is no plausible reason for denying needed information, especially when life and death are at stake.

That's unfortunately exactly what our health care system says to doctors, nurses, and hospitals. Physicians for example spend four years in medical school, and then several years more in their residency training, cramming medical information into their heads. Then we expect them to look at a patient taking four different drugs, with a heart condition, and immediately remember any drug-drug interactions that could occur. We ask them to do it without looking up any reference materials. We ask them to do it in the few minutes that they have with each patient given the ever-shorter visits, and ever-increasing patient and paperwork load. Moreover, in their free time, they are expected to keep up with all the new journal articles and learn about every new drug.

Yet hand-held computers can now allow the doctor to pull up up-to-date information immediately, right at the bedside, if he or she has any question. And NIH spends billions of dollars in research to generate that information. Shouldn't that investment reap results for the patient as quickly as possible? This bill seeks to provide the direction that would support such technology and make it widely available to physicians.

Right now, doctors, nurses, and hospitals are holding the health care system up, preventing utter collapse by sheer, heroic, force of will. Instead of the clinicians supporting the system, we should build a system that supports clinicians instead.

The premise of this legislation is that information, in the hands of the right people at the right time, drives quality and value. We need to empower patients and health care providers to make the right choices. And to do that, health care decisionsmakers—providers, payers, and patients—need to have access to the right information, where and when it is needed, securely and privately.

This legislation seeks to: 1. Generate information about health quality through increased research, increased public reporting along key quality measures, and standardization of those measures to assure comparability and usability of reported information; 2. Ensure that payers, providers and patients get information in a usable form so they can make effective decisions; and 3. Reduce barriers to the development of an IT infrastructure that is so critical to achieving those first 2 goals.

Eighty percent of the care delivered today is not backed by sound clinical

research. That is why we need to do more research, and see if the care we provide today has sound justification in science. But even where we know what to do, we don't always do it because the information is insufficiently disseminated and utilized. Studies have shown some procedures being performed even when they have not met accepted criteria for appropriateness: In one study, of all the non-emergent, noncancerous hysterectomies performed, only 30 percent had been properly worked up and met the full medical criteria for necessity. In another study, about one-fourth of coronary angiographies and upper gastrointestinal endoscopies did not meet standards of medical appropriateness.

On the flip side, in situations where the benefits of an intervention are clear, many patients do not receive the indicated care: Very few hospitalized patients at-risk for pneumococcal pneumonia who had not been previously vaccinated end up being vaccinated during their hospital stay. Routine peak flow measurements are conducted in only 28 percent of pediatric patients with asthma. And only one-half of diabetics receive an annual eye exam.

We know what good health care means in these areas, but we don't practice it, in part because that information may not be readily available, and regardless, there is no incentive for quality. We are suggesting—track the outcomes, share that information with patients, providers, and insurers, and ultimately, pay for performance.

This bill will help us become better purchasers of care, and help us take the first steps toward aligning the incentives so that higher quality is rewarded. I ask unanimous consent that the attached article from last week's New York Times be printed in the RECORD showing how our current reimbursement system is gravely misaligned. Under the current system, higher quality can be penalized, while worse care can ironically be more profitable.

Today, by introducing these ideas for the purpose of seeking feedback from my colleagues and experts in the field, I am taking the first step toward improving our health care system for everyone and saving money. I invite interested colleagues to join me in partnership on this important venture and look forward to taking strong, positive action next year to improve health quality for all Americans.

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

[From the New York Times, Dec. 5, 2003]

HOSPITALS SAY THEY'RE PENALIZED BY MEDICARE FOR IMPROVING CARE

(By Reed Abelson)

SALT LAKE CITY.—By better educating doctors about the most effective pneumonia treatments, Intermountain Health Care, a network of 21 hospitals in Utah and Idaho, say it saves at least 70 lives a year. By giving the right drugs at discharge time to more people with congestive heart failure, Intermountain saves another 300 lives annually and prevents almost 600 additional hospital stays.

But under Medicare, none of these good deeds go unpunished.

Intermountain says its initiatives have cost it millions of dollars in lost hospital admissions and lower Medicare reimbursements. In the mid-90's, for example, it made an average profit of 9 percent treating pneumonia patients; now, delivering better care, it loses an average of several hundred dollars on each case.

''The health care system is perverse,'' said a frustrated Dr. Brent C. James, who leads Intermountain's efforts to improve quality. ''The payments are perverse. It pays us to harm patients, and it punishes us when we don't.''

Intermountain's doctors and executives are in a swelling vanguard of critics who say that Medicare's payment system is fundamentally flawed.

Medicare, the nation's largest purchaser of health care, pays hospitals and doctors a fixed sum to treat a specific diagnosis or perform a given procedure, regardless of the quality of care they provide. Those who work to improve care are not paid extra, and poor care is frequently rewarded, because it creates the need for more procedures and services.

The Medicare legislation that President Bush is expected to sign on Monday calls for studies and a few pilot programs on quality improvement, but experts say that it does little to reverse financial disincentives to improving care.

''Right now, Medicare's payment system is at best neutral and, in some cases, negative, in terms of quality—we think that is an untenable situation,'' said Glenn M. Hackbarth, the chairman of the Medicare Payment Advisory Commission, an independent panel of economists, health care executives and doctors that advises Congress on such issues as access to care, quality and what to pay health care providers.

In a letter published in the current edition of Health Affairs, a scholarly journal, more than a dozen health care experts, including several former top Medicare officials, urged the program to take the lead in overhauling payment systems so that they reward good care.

''Despite a few initial successes, the inertia of the health system could easily overwhelm nascent efforts to raise average performance levels out of mediocrity,'' they wrote. ''Decisive change will occur only when Medicare, with the full support of the administration and Congress, creates financial incentives that promote pursuit of improved quality.''

Medicare's top official is quick to agree that the payment system needs to be fixed. ''It's one of the fundamental problems Medicare faces,'' said Thomas A. Scully, who as the administrator of the Centers for Medicare and Medicaid Services has encouraged better care by such steps as publicizing data about the quality of nursing home and home-health care and by experimenting with programs to reward hospitals for their efforts.

But the steps taken so far have been small, and many experts say that rather than paying for more studies, Congress should start making significant changes to the way doctors and hospitals are paid.

''They're splashing at the shallow end of the pool,'' said Dr. Arnold Milstein, a consultant for Mercer Human Resource Consulting and the medical director for the Pacific Business Group on Health, an association of large California employers. He would like to see as much as 20 percent of what Medicare pays doctors and hospitals linked to the quality of the care they provide and their efficiency in delivering treatment.

Two decades ago, Medicare led a revolution in health care. By setting fixed payments for various kinds of treatment—a coronary bypass surgery or curing a pneumonia or replacing a hip—rather than simply reimbursing doctors and hospitals for whatever it cost to deliver the care, it encouraged shorter hospital stays and less-expensive treatments.

But today, many health care executives say, Medicare's payment system hinders attempts to improve care. Dr. James, the Intermountain executive, said that he wrestled with the situation every day.

By making sure its doctors prescribe the most effective antibiotic for pneumonia patients, for example, and thereby avoiding complications, Intermountain forgoes roughly $1 million a year in Medicare payments, he estimated. When a pneumonia patient deteriorates so badly that the patient needs a ventilator, Intermountain collects about $19,000, compared with $5,000 for a typical pneumonia case. And while it makes money treating the sicker patient, Dr. James said, it loses money caring for the healthier one.

Nor is Intermountain rewarded for sparing someone a stay in the hospital—and for sparing Medicare the bill. Shirley Monson, 74, of Ephraim, Utah, said that she expected to be hospitalized when she developed pneumonia last year. Instead, Sanpete Valley Hospital, part of Intermountain, sent Mrs. Monson home with antibiotics, and she recovered over the next two weeks. Such visits produce just token payments for hospitals.

In addition to losing revenue each time it avoids an unnecessary hospital stay, Intermountain is penalized for treating only the sickest patients, Dr. James said. Medicare's payments for pneumonia are based on a rough estimate of the cost of an average case and assume a hospital will see a range of patients, some less sick—and therefore less expensive to treat—than others. But because Intermountain now admits only the sickest patients, its reimbursements fall short of its costs, Dr. James said, resulting in an average loss this year of a few hundred dollars a case.

Similarly, averting hospital stays for congestive heart patients by prescribing the right medicines costs Intermountain nearly $4 million a year in potential revenues, according to Dr. James. And every adverse drug reaction Intermountain avoids deprives it of the revenue from treating the case.

''We are really rewarded for episodic care and maximizing the care delivered in each episode,'' said Dr. Charles W. Sorenson Jr., Intermountain's chief operating officer.

Like the visit majority of the nation's hospitals, Intermountain is a nonprofit organization, and executives here say financial penalties do not damp their desire to provide the highest quality care, which they see as their central mission. But Intermountain, which operates health plans and outpatient clinics in addition to its hospitals, says it beds to keep hospital beds filled and make money where it can to subsidize unprofitable services and pay for charity care.

Outside of Medicare, Intermountain often benefits from its quality initiatives, executives said, because it gets to pocket much of the savings they produce. For example, Intermountain has generated about $2 million annually in savings by reducing the number of deliveries that women choose to induce before 39 weeks of pregnancy—and thereby reducing the risk of complications to the mother or baby. According to Dr. James, almost all that money has been spent on other kinds of care.

Hospital executives elsewhere say that they, too, have come up against the cold reality of the Medicare payment system. Partners HealthCare, the Boston system that includes Massachusetts General and Brigham

and Women's Hospitals, has taken steps to reduce the number of unnecessary diagnostic tests it conducts at outpatient radiology centers, though executives know that smarter care will cut into their revenues.

''That's where you're smack up against the perverseness of the system,'' said Dr. James J. Mongan, chief executive of Partners.

Medicare's payment policies have stymied efforts in the private sector to improve care, as well.

For example, the Leapfrog Group, a national organization of large employers concerned about health issues, has tried to encourage more hospitals to employ intensivists—specialists who oversee the care provided in intensive-care units. Though studies show that such doctors significantly improve care, Medicare does not pay for them, and employers and insurers are having difficulty persuading some hospitals to take on the added expense.

''It's going to be very hard to compete with the incentives and disincentives in Medicare,'' said Suzanne Delbanco, the group's executive director.

Others argue that hospitals and doctors should not be paid extra for doing what they should be doing in the first place.

Helen Darling, the executive director of the National Business Group on Health, a national employer group, said Medicare instead should take a firmer stance in demanding quality. The program had a significant effect, she noted, when it said that only hospitals meeting a minimum set of standards could be reimbursed by Medicare for heart transplants.

''The payment system drove quality,'' Ms. Darling said.

Medicare itself is taking some other tentative steps, including an experiment that pays certain hospitals an extra 2 percent for delivering the highest-quality care, as measured, for example, by administering antibiotics to pneumonia patients quickly and giving heart attack patients aspirin. But some hospital industry executives question whether that is enough money to offset the costs of improving care.

''It can only be a motivator if you really have an incentive,'' said Carmela Coyle, an executive with the American Hospital Association, who noted that hospitals on average are paid only 98 cents for each dollar of Medicare services they provide.

Mr. Scully, the Medicare administrator, defends the experiment, saying that the agency's goal is to determine if it is using the right measures to reward quality. ''If this works, we'll do a bigger demonstration,'' he said.

But many policy analysts and employer groups want Medicare to do more. ''Today, Medicare needs to step out front,'' said Peter V. Lee, chief executive of the Pacific Business Group on Health, who argues that how hospitals and doctors are paid is a critical component of motivating them to improve care. ''There needs to be money at play.''

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 279—RECOGNIZING THE IMPORTANCE AND CONTRIBUTIONS OF SPORTSMEN TO AMERICAN SOCIETY, SUPPORTING THE TRADITIONS AND VALUES OF SPORTSMEN, AND RECOGNIZING THE MANY ECONOMIC BENEFITS ASSOCIATED WITH OUTDOOR SPORTING ACTIVITIES

Mr. COLEMAN submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 279

Whereas there are more than 38,000,000 sportsmen in the United States;

Whereas these sportsmen, who come from all walks of life, engage in a sport they love, while helping to stimulate the economy, especially in small, rural communities, and contributing to conservation efforts;

Whereas sportsmen demonstrate values of conservation, appreciation of the outdoors, and love of the natural beauty of the United States;

Whereas sporting activities have both physical and mental health benefits that allow Americans to escape from the fast pace of their lives and to spend time with their families and friends;

Whereas sportsmen pass down their love of the outdoors from generation to generation;

Whereas many sportsmen consider hunting, trapping, and fishing of tremendous importance to the American way of life;

Whereas sportsmen have a passion for learning about nature and have tremendous respect for the game pursued, other sportsmen, the non-hunting populace, and the natural resources upon which they depend;

Whereas the total economic contribution of sportsmen amounts to $70,000,000,000 annually, with a ripple effect amounting to $179,000,000,000;

Whereas sportsmen contribute $1,700,000,000 every year for conservation programs, and these funds constitute a significant portion of on-the-ground wildlife conservation funding;

Whereas anglers support 1,000,000 jobs and small businesses in communities in every part of the United States, and they purchase $3,200,000,000 in basic fishing equipment every year;

Whereas tens of millions of Americans hunt and are a substantial economic force, spending $21,000,000,000 every year;

Whereas a sportsman President, Theodore Roosevelt, established America's first National Wildlife Refuge 100 years ago, and with the committed support of sportsmen over the last century, the National Wildlife Refuge System includes more than 540 refuges spanning 95,000,000 acres throughout all 50 States;

Whereas the funds raised from sportsmen through purchases of Federal migratory bird hunting and conservation stamps under the Act of March 16, 1934 (commonly known as the Duck Stamp Act) (16 U.S.C. 718a et seq.), are used to purchase and restore vital wetlands in the refuge system;

Whereas the sale of those stamps has raised more than $500,000,000 which has been used to acquire approximately 5,000,000 acres of refuge lands;

Whereas in 1937, Congress passed the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 et seq.), under which sportsmen and the firearms and ammunition industries agreed to a self-imposed 10 percent excise tax on ammunition and firearms, the proceeds of which are distributed to the States for wildlife restoration;

Whereas the Pittman-Robertson Wildlife Restoration Act has created a source of permanent funding for State wildlife agencies that has been used to rebuild and expand the ranges of numerous species, including wild turkey, white-tailed deer, pronghorn antelope, wood duck, beaver, black bear, American elk, bison, desert bighorn sheep, bobcat, and mountain lion, and several non-game species, including bald eagles, sea otters, and numerous song birds;

Whereas in 1950, Congress passed the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 et seq.), under which recreational anglers and the fishing and tackle manufacturing industries agreed to a self-imposed 10 percent excise tax on sport fishing equipment (including fishing rods, reels, lines, and hooks, artificial lures, baits and flies, and other fishing supplies and accessories), the proceeds of which are used for the purposes of constructing fish hatcheries, building boat access facilities, promoting fishing, and educating children about aquatic resources and fishing; and

Whereas the Dingell-Johnson Sport Fish Restoration Act was amended in 1984 to extend the excise tax to previously untaxed items of sport fishing equipment and to dedicate a portion of the existing Federal tax on motorboat fuels to those purposes, so that now approximately ⅓ of the funds expended by State fish and wildlife agencies for maintenance and development of sports fisheries are collected through the use of the excise tax: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the importance and contributions of sportsmen to American society;

(2) supports the traditions and values of sportsmen;

(3) supports the many conservation programs implemented by sportsmen;

(4) recognizes the many economic benefits associated with outdoor sporting activities; and

(5) recognizes the importance of encouraging the recruitment of, and teaching the traditions of hunting, trapping, and fishing to, future sportsmen.

SENATE RESOLUTION 280—CONGRATULATING THE SAN JOSE EARTHQUAKES FOR WINNING THE 2003 MAJOR LEAGUE SOCCER CUP

Mrs. BOXER (for herself and Mrs. FEINSTEIN) submitted the following resolution; which was considered and agreed to:

S. RES. 280

Whereas on November 23, 2003, the San Jose Earthquakes defeated the Chicago Fire to win the 2003 Major League Soccer Cup;

Whereas the San Jose Earthquakes achieved a 14–7–9 regular season record to finish first in the Major League Soccer Western Conference;

Whereas the San Jose Earthquakes finished an extraordinary season by overcoming injuries, adversity, and multiple-goal deficits to reach the Major League Soccer Cup championship match;

Whereas in the championship match, the San Jose Earthquakes and the Chicago Fire scored 6 goals combined, breaking the Major League Soccer Cup championship match scoring record;

Whereas head coach Frank Yallop led the San Jose Earthquakes to victory;

Whereas the San Jose Earthquakes is a team of world-class players, including Jeff Agoos, Arturo Alvarez, Brian Ching, Jon Conway, Ramiro Corrales, Troy Dayak, Dwayne De Rosario, Landon Donovan, Todd Dunivant, Ronnie Ekelund, Rodrigo Faria, Manny Lagos, Roger Levesque, Brain Mullan, Richard Mulrooney, Pat Onstad, Eddie Robinson, Chris Roner, Ian Russell, Josh Saunders, Craig Waibel, and Jamil Walker, all of whom contributed extraordinary performances throughout the regular season, playoffs and Major League Soccer Cup;

Whereas San Jose Earthquakes midfielder Ronnie Ekelund scored in the fifth minute of play, tying Eduardo Hurtado for the fastest goal scored in a Major League Soccer Cup championship match;

Whereas with the victory, San Jose Earthquakes captain Jeff Agoos won his second Major League Soccer Cup for the San Jose Earthquakes and his fifth Major League Soccer Cup overall;

Whereas San Jose Earthquakes forward Landon Donovan, who has been named United States National Team Player of the Year twice, scored 2 goals on 2 shots in the championship match, earning the Honda Major League Soccer Cup Most Valuable Player Award;

Whereas by winning the 2003 Major League Soccer Cup, the San Jose Earthquakes join DC United to become the second team in Major League Soccer history to win the Major League Soccer Cup more than once;

Whereas the San Jose Earthquakes have brought great pride to the City of San Jose and to the State of California;

Whereas Major League Soccer has become extremely popular in only 8 seasons; and

Whereas the success of Major League Soccer has contributed to the growing popularity of soccer in the United States in recent years: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the San Jose Earthquakes for winning the 2003 Major League Soccer Cup;

(2) recognizes the achievement of the players, coaches, staff, and supporters of the San Jose Earthquakes in bringing the 2003 Major League Soccer Cup to San Jose;

(3) commends the San Jose community for its enthusiastic support of the San Jose Earthquakes; and

(4) expresses the hope that Major League Soccer will continue to inspire fans and young players in the United States and around the world by producing teams of the high caliber of the San Jose Earthquakes.

SENATE RESOLUTION 281—RELATIVE TO THE DEATH OF THE HONORABLE PAUL SIMON, A FORMER SENATOR FROM THE STATE OF ILLINOIS

Mr. FITZGERALD (for himself, Mr. DURBIN, MR. FRIST, Mr. DASCHLE, and Mr. DEWINE) submitted the following resolution; which was considered and agreed to:

S. RES. 281

Whereas the Honorable Paul Simon at the age of 19 became the Nation's youngest editor-publisher when he accepted a Lion's Club challenge to save the Troy Tribute in Troy, Illinois, and built a chain of 13 newspapers in southern and central Illinois;

Whereas the Honorable Paul Simon used his newspaper to expose criminal activities, and in 1951, at age 22, was called as a key witness to testify before the U.S. Senate's Crime Investigating Committee;

Whereas the Honorable Paul Simon served in the Illinois legislature for 14 years, winning the Independent Voters of Illinois' ''Best Legislator Award'' every session;

Whereas the Honorable Paul Simon was elected lieutenant governor in 1968 and was the first in Illinois' history to be elected to that post with a governor of another party;

Whereas the Honorable Paul Simon served Illinois in the United States House of Representatives and the United States Senate with devotion and distinction;

Whereas the Honorable Paul Simon is the only individual to have served in both the Illinois House of Representatives and the Illinois Senate, and the U.S. House of Representatives and the U.S. Senate.

Whereas the Honorable Paul Simon was the founder and director of the Public Policy Institute at Southern Illinois University in Carbondale, Illinois, and taught there for more than six years in the service of the youth of our Nation;

Whereas the Honorable Paul Simon wrote over 20 books and held over 50 honorary degrees;

Whereas the Honorable Paul Simon was an unapologetic champion of the less fortunate and a constant example of caring and honesty in public service;

Whereas his efforts on behalf of Illinoisans and all Americans earned him the esteem and high regard of his colleagues; and

Whereas his tragic death has deprived his State and Nation of an outstanding lawmaker and public servant: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Paul Simon, a former Senator from the State of Illinois.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the deceased former Senator.

SENATE RESOLUTION 282—PROVIDING THE FUNDING TO ASSIST IN MEETING THE OFFICIAL EXPENSES OF A PRELIMINARY MEETING RELATIVE TO THE FORMATION OF A UNITED STATES SENATE–CHINA INTERPARLIAMENTARY GROUP

Mr. STEVENS submitted the following resolution; which was considered and agreed to:

S. RES. 282

Resolved, That—

(1) there is authorized within the contingent fund of the Senate under the appropriation account ''MISCELLANEOUS ITEMS'' $75,000 for fiscal year 2004 to assist in meeting the official expenses of a preliminary meeting relative to the formation of a United States Senate-China interparliamentary group including travel, per diem, conference room expenses, hospitality expenses, and food and food-related expenses;

(2) such expenses shall be paid on vouchers to be approved by the President pro tempore of the Senate; and

(3) the Secretary of the Senate is authorized to advance such sums as necessary to carry out this resolution.

SENATE RESOLUTION 283—AFFIRMING THE NEED TO PROTECT CHILDREN IN THE UNITED STATES FROM INDECENT PROGRAMMING

Mr. SESSIONS (for himself, Mr. SHELBY, Mr. INHOFE, Mr. BROWNBACK, Mr. NICKLES, Mr. BUNNING, Mr. TALENT, Mr. CHAMBLISS, Mr. CRAIG, Mr. DOMENICI, Mr. KYL, and Mr. HOLLINGS) submitted the following resolution; which was considered and agreed to:

S. RES. 283

Whereas millions of people in the United States are increasingly concerned with the patently offensive television and radio programming being sent into their homes;

Whereas millions of families in the United States are particularly concerned with the adverse impact of this programming on children;

Whereas indecent and offensive programming is contributing to a dramatic coarsening of civil society of the United States;

Whereas the Federal Communications Commission is charged with enforcing standards of decency in broadcast media;

Whereas the Federal Communications Commission established a standard defining what constitutes indecency in the declaratory order In the Matter of a Citizen's Complaint Against Pacifica Foundation Station WBAI(FM), 56 F.C.C.2d 94 (1975) (referred to in this Resolution as the ''Pacifica order'');

Whereas the Federal Communications Commission has not used all of its available authority to impose penalties on broadcasters that air indecent material even when egregious and repeated violations have been found in the cases of WKRK–FM, Detroit, MI, File No. EB–02–IH–0109 (Apr. 3, 2003) and WNEW–FM, New York, New York, EB–02–IH–0685 (Sept. 30, 2003);

Whereas the standard established in the Pacifica order focuses on protecting children from exposure to indecent language;

Whereas the standard established in the Pacifica order was upheld as constitutional by the United States Supreme Court in Federal Communications Commission v. Pacifica Foundation, 438 U.S. 726 (1978);

Whereas the Enforcement Bureau of the Federal Communications Commission has refused to sanction the airing of indecent language during the broadcast of the Golden Globe Awards, at a time when millions of children were in the potential audience; and

Whereas as of December 2003, an application for review is pending before the Federal Communications Commission, requesting that the full Commission review that decision of the Enforcement Bureau: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Federal Communications Commission should re-consider the Enforcement Bureau's decision in the Matter of Complaints Against Various Broadcast Licensees Regarding Their Airing of the ''Golden Globe Awards'' Program, File No. EB–03–IH–0110, 2003 FCC LEXIS 5382, (Oct. 3, 2003), in light of the public policy considerations in protecting children from indecent material;

(2) the Federal Communications Commission should return to vigorously and expeditiously enforcing its own United States Supreme Court-approved standard for indecency in broadcast media, as established in the declaratory order In the Matter of a Citizen's Complaint Against Pacifica Foundation Station WBAI(FM), 56 F.C.C.2d 94 (1975);

(3) the Federal Communications Commission should reassert its responsibility as defender of the public interest by undertaking new and serious efforts to sanction broadcast licensees that refuse to adhere to the standard established in that order;

(4) the Federal Communications Commission should make every reasonable and lawful effort to protect children from the degrading influences of indecent programming;

(5) the Federal Communications Commission should use all of its available authority to protect the public from indecent broadcasts including: (1) the discretion to impose fines up to a statutory maximum for each separate ''utterance'' or ''material'' found to be indecent; and (2) the initiation of license

revocation proceedings for repeated violations of its indecency rules;

(6) the Federal Communications Commission should resolve all indecency complaints expeditiously, and should consider reviewing such complaints at the full Commission level; and

(7) the Federal Communications Commission should aggressively investigate and enforce all indecency allegations.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2227. Mr. FRIST (for Mr. GRASSLEY) proposed an amendment to the bill H.R. 743, to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

SA 2228. Mr. FRIST (for Mr. ALEXANDER) proposed an amendment to the bill H.R. 2264, An act to authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes.

SA 2229. Mr. FRIST (for Mr. ALEXANDER) proposed an amendment to the bill H.R. 2264, supra.

SA 2230. Mr. FRIST (for Mr. LEVIN) proposed an amendment to the bill S. 1267, to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes.

SA 2231. Mr. FRIST (for Mr. HATCH) proposed an amendment to the bill S. 1177, to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

TEXT OF AMENDMENTS

SA 2227. Mr. FRIST (for Mr. GRASSLEY) proposed an amendment to the bill H.R. 743, to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes; as follows:

On page 83, strike lines 14 through 16, and insert ''807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended further by inserting after the''.

Beginning on page 112, strike line 16 and all that follows through page 113, line 6, and insert the following:

''(c)(1) In addition to the amount otherwise appropriated in any other law to carry out subsection (a) for fiscal year 2004, up to $8,500,000 is authorized and appropriated and shall be used by the Commissioner of Social Security under this subsection for purposes of conducting a statistically valid survey to determine how payments made to individuals, organizations, and State or local government agencies that are representative payees for benefits paid under title II or XVI are being managed and used on behalf of the beneficiaries for whom such benefits are paid.

''(2) Not later than 18 months after the date of enactment of this subsection, the Commissioner of Social Security shall submit a report on the survey conducted in accordance with paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.''.

Beginning on page 118, strike line 19 and all that follows through page 123, line 12, and insert the following:

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

(a) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by striking ''Prisoners'' and all that follows and inserting the following: ''Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees'';

(2) in paragraph (1)(A)(ii)(IV), by striking ''or'' at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

''(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed, or

''(v) is violating a condition of probation or parole imposed under Federal or State law.'';

(5) by adding at the end of paragraph (1)(B) the following:

''(iii) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

''(I) a court of competent jurisdiction has found the individual not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the individual for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

''(II) the individual was erroneously implicated in connection with the criminal offense by reason of identity fraud.

''(iv) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

''(I) the offense described in clause (iv) or underlying the imposition of the probation or parole described in clause (v) was nonviolent and not drug-related, and

''(II) in the case of an individual from whom benefits have been withheld or otherwise would be withheld pursuant to subparagraph (A)(v), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.''; and

(6) in paragraph (3), by adding at the end the following:

''(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

''(i) the beneficiary is described in clause (iv) or (v) of paragraph (1)(A); and

''(ii) the location or apprehension of the beneficiary is within the officer's official duties.''.

(b) CONFORMING AMENDMENTS TO TITLE XVI.—Section 1611(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended—

(1) in paragraph (4)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting ''(A)'' after ''(4)'';

(C) in clause (i) of subparagraph (A) (as redesignated by subparagraph (A)), by striking ''or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State'' and inserting ''or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed''; and

(D) by adding at the end the following:

''(B) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

''(i) a court of competent jurisdiction has found the person not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the person for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

''(ii) the person was erroneously implicated in connection with the criminal offense by reason of identity fraud.

''(C) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

''(i) the offense described in subparagraph (A)(i) or underlying the imposition of the probation or parole described in subparagraph (A)(ii) was nonviolent and not drug-related, and

''(ii) in the case of a person who is not considered an eligible individual or eligible spouse pursuant to subparagraph (A)(ii), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.''; and

(2) in paragraph (5), by striking subparagraphs (A) and (B) and inserting the following:

''(A) the recipient is described in clause (i) or (ii) of paragraph (4)(A); and

''(B) the location or apprehension of the recipient is within the officer's official duties.''.

(c) CONFORMING AMENDMENT.—Section 804(a)(2) of the Social Security Act (42 U.S.C. 1004(a)(2)) is amended by striking ''or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State'' and inserting ''or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of enactment of this Act.

On page 126, beginning on line 22, strike ''guilty of'' and all that follows through ''shall be'' on line 26, and insert ''fined not more than $5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be''.

Beginning on page 129, strike line 16 and all that follows through page 132, line 11, and insert the following:

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) AMENDMENTS TO TITLE II.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

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

(2) by inserting after subsection (a) the following:

''(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the victims of such offense specified in paragraph (4).

''(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution to victims of such offense under this subsection.

''(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

''(4) For purposes of paragraphs (1) and (2), the victims of an offense under subsection (a) are the following:

''(A) Any individual who suffers a financial loss as a result of the defendant's violation of subsection (a).

''(B) The Commissioner of Social Security, to the extent that the defendant's violation of subsection (a) results in—

''(i) the Commissioner of Social Security making a benefit payment that should not have been made; or

''(ii) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 205(j).

''(5)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited in the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund, as appropriate.

''(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (4)(B)(ii), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss, except that such amount may be reduced by the amount of any overpayments of benefits owed under this title, title VIII, or title XVI by the individual.''; and

(3) by amending subsection (c) (as redesignated by paragraph (1)), by striking the second sentence.

(b) AMENDMENTS TO TITLE VIII.—Section 811 of the Social Security Act (42 U.S.C. 1011) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) COURT ORDER FOR RESTITUTION.—

''(1) IN GENERAL.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

''(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

''(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 807(i).

''(2) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

''(3) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

''(4) RECEIPT OF RESTITUTION PAYMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

''(B) PAYMENT TO THE INDIVIDUAL.—In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title XVI by the individual.''.

(c) AMENDMENTS TO TITLE XVI.—Section 1632 of the Social Security Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

''(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

''(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

''(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 1631(a)(2).

''(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

''(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

''(4)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

''(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title VIII by the individual.''; and

(3) by amending subsection (c) (as redesignated by paragraph (1)) by striking ''(1) If a person'' and all that follows through ''(2)''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of enactment of this Act.

Beginning on page 132, strike line 12 and all that follows through page 133, line 18.

On page 133, line 19, strike ''**211**'' and insert ''**210**''.

On page 138, line 17, strike ''**212**'' and insert ''**211**''.

On page 139, strike lines 5 through 11, and insert the following:

''(c) For purposes of subsections (a) and (b), the criterion specified in this subsection is that the individual, if not a United States citizen or national—

''(1) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

''(2) at the time any such quarters of coverage are earned—

''(A) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

''(B) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

''(C) the business engaged in or service as a crewman performed is within the scope of the terms of such individual's admission to the United States.''.

On page 139, strike lines 18 through 22, and insert the following:

''(C) if not a United States citizen or national—

''(i) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

''(ii) at the time any quarters of coverage are earned—

''(I) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

''(II) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

''(III) the business engaged in or service as a crewman performed is within the scope of the terms of such individual's admission to the United States.''.

On page 139, line 24, strike ''filed'' and insert ''based on social security account numbers issued''.

Beginning on page 141, strike line 9 and all that follows through page 143, line 23, and insert the following:

SEC. 302. TEMPORARY EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) IN GENERAL.—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking ''section 206(a)'' and inserting ''section 206'';

(B) by striking ''(other than paragraph (4) thereof)'' and inserting ''(other than subsections (a)(4) and (d) thereof)''; and

(C) by striking ''paragraph (2) thereof'' and inserting ''such section'';

(2) in subparagraph (A)(i)—

(A) by striking ''in subparagraphs (A)(ii)(I) and (C)(i),'' and inserting ''in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)''; and

(B) by striking ''and'' at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

''(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase 'paragraph (7)(A) or (8)(A) of section 1631(a) or the requirements of due process of law' for the phrase 'subsection (g) or (h) of section 223';

''(iii) by substituting, in subsection (a)(2)(C)(i), the phrase 'under title II' for the phrase 'under title XVI';

''(iv) by substituting, in subsection (b)(1)(A), the phrase 'pay the amount of such fee' for the phrase 'certify the amount of such fee for payment' and by striking, in subsection (b)(1)(A), the phrase 'or certified for payment'; and

''(v) by substituting, in subsection (b)(1)(B)(ii), the phrase 'deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)' for the phrase 'determined before any applicable reduction under section 1127(a))'.''; and

(4) by redesignating subparagraph (B) as subparagraph (D) and inserting after subparagraph (A) the following:

''(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

''(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

''(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

''(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

''(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed $75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.

''(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

''(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

''(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

''(v) Assessments on attorneys collected under this subparagraph shall be deposited as miscellaneous receipts in the general fund of the Treasury.

''(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.''.

(b) CONFORMING AMENDMENTS.—Section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended—

(1) in paragraph (2)(F)(i)(II), by inserting ''and payment of attorney fees under subsection (d)(2)(B)'' after ''subsection (g)''; and

(2) in paragraph (10)(A)—

(A) in the matter preceding clause (i), by inserting ''and payment of attorney fees under subsection (d)(2)(B)'' after ''subsection (g)''; and

(B) in the matter following clause (ii), by inserting ''and payment of attorney fees under subsection (d)(2)(B)'' after ''State''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be paid under section 1631(d)(2) of the Social Security Act on or after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act.

(2) SUNSET.—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date described in paragraph (1).

SEC. 303. NATIONWIDE DEMONSTRATION PROJECT PROVIDING FOR EXTENSION OF FEE WITHHOLDING PROCEDURES TO NON-ATTORNEY REPRESENTATIVES.

(a) IN GENERAL.—The Commissioner of Social Security (hereafter in this section referred to as the ''Commissioner'') shall develop and carry out a nationwide demonstration project under this section with respect to agents and other persons, other than attorneys, who represent claimants under titles II and XVI of the Social Security Act before the Commissioner. The demonstration project shall be designed to determine the potential results of extending to such representatives the fee withholding procedures and assessment procedures that apply under sections 206 and section 1631(d)(2) of such Act to attorneys seeking direct payment out of past due benefits under such titles and shall include an analysis of the effect of such extension on claimants and program administration.

(b) STANDARDS FOR INCLUSION IN DEMONSTRATION PROJECT.—Fee-withholding procedures may be extended under the demonstration project carried out pursuant to subsection (a) to any non-attorney representative only if such representative meets at least the following prerequisites:

(1) The representative has been awarded a bachelor's degree from an accredited institution of higher education, or has been determined by the Commissioner to have equivalent qualifications derived from training and work experience.

(2) The representative has passed an examination, written and administered by the Commissioner, which tests knowledge of the relevant provisions of the Social Security Act and the most recent developments in agency and court decisions affecting titles II and XVI of such Act.

(3) The representative has secured professional liability insurance, or equivalent insurance, which the Commissioner has determined to be adequate to protect claimants in the event of malpractice by the representative.

(4) The representative has undergone a criminal background check to ensure the representative's fitness to practice before the Commissioner.

(5) The representative demonstrates ongoing completion of qualified courses of continuing education, including education regarding ethics and professional conduct, which are designed to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under titles II and XVI of such Act. Such continuing education, and the instructors providing such education, shall meet such standards as the Commissioner may prescribe.

(c) ASSESSMENT OF FEES.—

(1) IN GENERAL.—The Commissioner may assess representatives reasonable fees to cover the cost to the Social Security Administration of administering the prerequisites described in subsection (b).

(2) DISPOSITION OF FEES.—Fees collected under paragraph (1) shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or deposited as miscellaneous receipts in the general fund of the Treasury, based on such allocations as the Commissioner of Social Security determines appropriate.

(3) AUTHORIZATION OF APPROPRIATIONS.—The fees authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended for administering the prerequisites described in subsection (b).

(d) NOTICE TO CONGRESS AND APPLICABILITY OF FEE WITHHOLDING PROCEDURES.—Not later than 1 year after the date of enactment of this Act, the Commissioner shall complete such actions as are necessary to fully implement the requirements for full operation of the demonstration project and shall submit to each House of Congress a written notice of the completion of such actions. The applicability under this section to non-attorney representatives of the fee withholding procedures and assessment procedures under sections 206 and 1631(d)(2) of the Social Security Act shall be effective with respect to fees for representation of claimants in the case of claims for benefits with respect to which the agreement for representation is entered into by such non-attorney representatives during the period beginning with the date of the submission of such notice by the Commissioner to Congress and ending with the termination date of the demonstration project.

(e) REPORTS BY THE COMMISSIONER; TERMINATION.—

(1) INTERIM REPORTS.—On or before the date which is 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate an annual interim report on the progress of the demonstration project carried out under this section, together with any related data and materials that the Commissioner may consider appropriate.

(2) TERMINATION DATE AND FINAL REPORT.—The termination date of the demonstration project under this section is the date which

is 5 years after the date of the submission of the notice by the Commissioner to each House of Congress pursuant to subsection (d). The authority under the preceding provisions of this section shall not apply in the case of claims for benefits with respect to which the agreement for representation is entered into after the termination date. Not later than 90 days after the termination date, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to the demonstration project.

SEC. 304. GAO STUDY REGARDING THE FEE PAYMENT PROCESS FOR CLAIMANT REPRESENTATIVES.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall study and evaluate the appointment and payment of claimant representatives appearing before the Commissioner of Social Security in connection with benefit claims under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) in each of the following groups:

(A) Attorney claimant representatives who elect fee withholding under section 206 or 1631(d)(2) of such Act.

(B) Attorney claimant representatives who do not elect such fee withholding.

(C) Non-attorney claimant representatives who are eligible for, and elect, such fee withholding.

(D) Non-attorney claimant representatives who are eligible for, but do not elect, such fee withholding.

(E) Non-attorney claimant representatives who are not eligible for such fee withholding.

(2) MATTERS TO BE STUDIED.—In conducting the study under this subsection, the Comptroller General shall, for each of group of claimant representatives described in paragraph (1)—

(A) conduct a survey of the relevant characteristics of such claimant representatives including—

(i) qualifications and experience;

(ii) the type of employment of such claimant representatives, such as with an advocacy group, State or local government, or insurance or other company;

(iii) geographical distribution between urban and rural areas;

(iv) the nature of claimants' cases, such as whether the cases are for disability insurance benefits only, supplemental security income benefits only, or concurrent benefits;

(v) the relationship of such claimant representatives to claimants, such as whether the claimant is a friend, family member, or client of the claimant representative; and

(vi) the amount of compensation (if any) paid to the claimant representatives and the method of payment of such compensation;

(B) assess the quality and effectiveness of the services provided by such claimant representatives, including a comparison of claimant satisfaction or complaints and benefit outcomes, adjusted for differences in claimant representatives' caseload, claimants' diagnostic group, level of decision, and other relevant factors;

(C) assess the interactions between fee withholding under sections 206 and 1631(d)(2) of such Act (including under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act), the windfall offset under section 1127 of such Act, and interim assistance reimbursements under section 1631(g) of such Act;

(D) assess the potential results of making permanent the fee withholding procedures under sections 206 and 1631(d)(2) of such Act under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act with respect to program administration and claimant outcomes, and assess whether the rules and procedures employed by the Commissioner of Social Security to evaluate the qualifications and performance of claimant representatives should be revised prior to making such procedures permanent; and

(E) make such recommendations for administrative and legislative changes as the Comptroller General of the United States considers necessary or appropriate.

(3) CONSULTATION REQUIRED.—The Comptroller General of the United States shall consult with beneficiaries under title II of such Act, beneficiaries under title XVI of such Act, claimant representatives of beneficiaries under such titles, and other interested parties, in conducting the study and evaluation required under paragraph (1).

(b) REPORT.—Not later than 3 years after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act, the Comptroller General of the United States shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of the study and evaluation conducted pursuant to subsection (a).

On page 144, strike lines 7 through 13, and insert the following:

SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking ''conducted under subsection (a)'' and inserting ''initiated under subsection (a) on or before December 17, 2005''; and

(2) in subsection (d)(2), by striking the first sentence and inserting the following: ''The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2005.''.

On page 149, after line 21, add the following:

SEC. 407. REAUTHORIZATION OF APPROPRIATIONS FOR CERTAIN WORK INCENTIVES PROGRAMS.

(a) BENEFITS PLANNING, ASSISTANCE, AND OUTREACH.—Section 1149(d) of the Social Security Act (42 U.S.C. 1320b–20(d)) is amended by striking ''2004'' and inserting ''2009''.

(b) PROTECTION AND ADVOCACY.—Section 1150(h) of the Social Security Act (42 U.S.C. 1320b–21(h)) is amended by striking ''2004'' and inserting ''2009''.

Beginning on page 157, strike line 16 and all that follows through page 158, line 2, and insert the following:

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY AND LOUISIANA.

(a) IN GENERAL.—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting ''Kentucky, Louisiana,'' after ''Illinois,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2003.

Beginning on page 159, strike line 1 and all that follows through page 166, line 8, and insert the following:

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

(a) IN GENERAL.—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by adding at the end the following:

''(5)(A) The amount of a monthly insurance benefit of any individual for each month under subsection (b), (c), (e), (f), or (g) (as determined after application of the provisions of subsection (q) and the preceding provisions of this subsection) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to such individual for such month which is based upon such individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, during any portion of the last 60 months of such service ending with the last day such individual was employed by such entity—

''(i) such service did not constitute 'employment' as defined in section 210, or

''(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

''(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

''(II) an election to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

''(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).

''(ii) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which such individual is eligible for benefits under this subsection and has made a valid application for such benefits.

''(C) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Commissioner of Social Security) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.''.

(b) CONFORMING AMENDMENTS.—

(1) WIFE'S INSURANCE BENEFITS.—Section 202(b) of the Social Security Act (42 U.S.C. 402(b)) is amended—

(A) in paragraph (2), by striking ''subsection (q) and paragraph (4) of this subsection'' and inserting ''subsections (k)(5) and (q)''; and

(B) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) HUSBAND'S INSURANCE BENEFITS.—Section 202(c) of the Social Security Act (42 U.S.C. 402(c)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(B) in paragraph (2) as so redesignated, by striking ''subsection (q) and paragraph (2) of this subsection'' and inserting ''subsections (k)(5) and (q)''.

(3) WIDOW'S INSURANCE BENEFITS.—Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

(A) in paragraph (2)(A), by striking ''subsection (q), paragraph (7) of this subsection,'' and inserting ''subsection (k)(5), subsection (q),''; and

(B) by striking paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(4) WIDOWER'S INSURANCE BENEFITS.—

(A) IN GENERAL.—Section 202(f) of the Social Security Act (42 U.S.C. 402(f)) is amended—

(i) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively; and

(ii) in paragraph (2) as so redesignated, by striking ''subsection (q), paragraph (2) of this subsection,'' and inserting ''subsection (k)(5), subsection (q),''.

(B) CONFORMING AMENDMENTS.—

(i) Section 202(f)(1)(B) of the Social Security Act (42 U.S.C. 402(f)(1)(B)) is amended by striking ''paragraph (5)'' and inserting ''paragraph (4)''.

(ii) Section 202(f)(1)(F) of the Social Security Act (42 U.S.C. 402(f)(1)(F)) is amended by striking ''paragraph (6)'' and ''paragraph (5)'' (in clauses (i) and (ii)) and inserting ''paragraph (5)'' and ''paragraph (4)'', respectively.

(iii) Section 202(f)(5)(A)(ii) of the Social Security Act (as redesignated by subparagraph (A)(i)) is amended by striking ''paragraph (5)'' and inserting ''paragraph (4)''.

(iv) Section 202(k)(2)(B) of the Social Security Act (42 U.S.C. 402(k)(2)(B)) is amended by striking ''or (f)(4)'' each place it appears and inserting ''or (f)(3)''.

(v) Section 202(k)(3)(A) of the Social Security Act (42 U.S.C. 402(k)(3)(A)) is amended by striking ''or (f)(3)'' and inserting ''or (f)(2)''.

(vi) Section 202(k)(3)(B) of the Social Security Act (42 U.S.C. 402(k)(3)(B)) is amended by striking ''or (f)(4)'' and inserting ''or (f)(3)''.

(vii) Section 226(e)(1)(A)(i) of the Social Security Act (42 U.S.C. 426(e)(1)(A)(i)) is amended by striking ''and 202(f)(5)'' and inserting ''and 202(f)(4)''.

(5) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g) of the Social Security Act (42 U.S.C. 402(g)) is amended—

(A) in paragraph (2), by striking ''Except as provided in paragraph (4) of this subsection, such'' and inserting ''Such''; and

(B) by striking paragraph (4).

(c) EFFECTIVE DATE AND TRANSITIONAL RULE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(k)(5)(A) of the Social Security Act (in the matter preceding clause (i) thereof) if the last day of such service occurs before July 1, 2004.

(2) TRANSITIONAL RULE.—In the case of any individual whose last day of service described in subparagraph (A) of section 202(k)(5) of the Social Security Act (as added by subsection (a) of this section) occurs within 5 years after the date of enactment of this Act—

(A) the 60-month period described in such subparagraph (A) shall be reduced (but not to less than 1 month) by the number of months of such service (in the aggregate and without regard to whether such months of service were continuous) which—

(i) were performed by the individual under the same retirement system on or before the date of enactment of this Act, and

(ii) constituted ''employment'' as defined in section 210 of the Social Security Act; and

(B) months of service necessary to fulfill the 60-month period as reduced by subparagraph (A) of this paragraph must be performed after the date of enactment of this Act.

On page 166, strike line 9 and insert the following:

SEC. 419. DISCLOSURE TO WORKERS OF EFFECT OF WINDFALL ELIMINATION PROVISION AND GOVERNMENT PENSION OFFSET PROVISION.

(a) INCLUSION OF NONCOVERED EMPLOYEES AS ELIGIBLE INDIVIDUALS ENTITLED TO SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(3) of the Social Security Act (42 U.S.C. 1320b–13(a)(3)) is amended—

(1) by striking ''who'' after ''an individual'' and inserting ''who'' before ''has'' in each of subparagraphs (A) and (B);

(2) by inserting ''(i) who'' after ''(C)''; and

(3) by inserting before the period the following: '', or (ii) with respect to whom the Commissioner has information that the pattern of wages or self-employment income indicate a likelihood of noncovered employment''.

(b) EXPLANATION IN SOCIAL SECURITY ACCOUNT STATEMENTS OF POSSIBLE EFFECTS OF PERIODIC BENEFITS UNDER STATE AND LOCAL RETIREMENT SYSTEMS ON SOCIAL SECURITY BENEFITS.—Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(E) in the case of an eligible individual described in paragraph (3)(C)(ii), an explanation, in language calculated to be understood by the average eligible individual, of the operation of the provisions under sections 202(k)(5) and 215(a)(7) and an explanation of the maximum potential effects of such provisions on the eligible individual's monthly retirement, survivor, and auxiliary benefits.''.

(c) TRUTH IN RETIREMENT DISCLOSURE TO GOVERNMENTAL EMPLOYEES OF EFFECT OF NONCOVERED EMPLOYMENT ON BENEFITS UNDER TITLE II.—Section 1143 of the Social Security Act (42 U.S..C. 1320b–13) is amended further by adding at the end the following:

''Disclosure to Governmental Employees of Effect of Noncovered Employment

''(d)(1) In the case of any individual commencing employment on or after January 1, 2005, in any agency or instrumentality of any State (or political subdivision thereof, as defined in section 218(b)(2)) in a position in which service performed by the individual does not constitute 'employment' as defined in section 210, the head of the agency or instrumentality shall ensure that, prior to the date of the commencement of the individual's employment in the position, the individual is provided a written notice setting forth an explanation, in language calculated to be understood by the average individual, of the maximum effect on computations of primary insurance amounts (under section 215(a)(7)) and the effect on benefit amounts (under section 202(k)(5)) of monthly periodic payments or benefits payable based on earnings derived in such service. Such notice shall be in a form which shall be prescribed by the Commissioner of Social Security.

''(2) The written notice provided to an individual pursuant to paragraph (1) shall include a form which, upon completion and signature by the individual, would constitute certification by the individual of receipt of the notice. The agency or instrumentality providing the notice to the individual shall require that the form be completed and signed by the individual and submitted to the agency or instrumentality and to the pension, annuity, retirement, or similar fund or system established by the governmental entity involved responsible for paying the monthly periodic payments or benefits, before commencement of service with the agency or instrumentality.''.

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) of this section shall apply with respect to social security account statements issued on or after January 1, 2007.

SEC. 420. POST-1956 MILITARY WAGE CREDITS.

On page 167, between lines 14 and 15, insert the following:

SEC. 420A. ELIMINATION OF DISINCENTIVE TO RETURN-TO-WORK FOR CHILDHOOD DISABILITY BENEFICIARIES.

(a) IN GENERAL.—Section 202(d)(6)(B) of the Social Security Act (42 U.S.C. 402(d)(6)(B)) is amended—

(1) by inserting ''(i)'' after ''began''; and

(2) by adding after ''such disability,'' the following: ''or (ii) after the close of the 84th month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under such disability due to performance of substantial gainful activity,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to benefits payable for months beginning with the 7th month that begins after the date of enactment of this Act.

Beginning on page 173, strike line 3 and all that follows through page 174, line 10, and insert the following:

(e) TRANSFERS.—Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(d)(2)) is amended—

(1) by inserting ''or the Railroad Retirement Account'' after ''National Railroad Retirement Investment Trust'' the second place it appears;

(2) by inserting ''or the Railroad Retirement Board'' after ''National Railroad Retirement Investment Trust'' the third place it appears;

(3) by inserting ''(either directly or through a commingled account consisting only of such obligations)'' after ''United States'' the first place it appears; and

(4) in the third sentence, by inserting before the period at the end the following: ''or to purchase such additional obligations''.

Beginning on page 177, strike line 20 and all that follows through page 178, line 18.

On page 178, line 19, strike ''**433**'' and insert ''**432**''.

Beginning on page 179, strike line 5 and all that follows through page 181, line 3.

On page 181, line 4, strike ''**435**'' and insert ''**433**''.

On page 182, line 11, strike ''**436**'' and insert ''**434**''.

On page 183, line 3, strike ''**437**'' and insert ''**435**''.

On page 184, line 6, strike ''**438**'' and insert ''**436**''.

Beginning on page 184, strike line 21 and all that follows through page 186, line 22.

Conform the table of contents accordingly.

SA 2228. Mr. FRIST (for Mr. ALEXANDER) proposed an amendment to the bill H.R. 2264, An act to authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes; as follows:

Beginning on page 5, strike line 24 and all that follows through page 6, line 11, and insert the following:

(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out the Congo Basin Forest Partnership (CBFP) program $18,600,000 for fiscal year 2004.

(b) CARPE.—Of the amounts appropriated pursuant to the authorization of appropriations in subsection (a), $16,000,000 is authorized to be made available to the Central Africa Regional Program for the Environment (CARPE) of the United States Agency for International Development.

(c) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

SA 2229. Mr. FRIST (for Mr. ALEXANDER) proposed an amendment to the bill H.R. 2264, An act to authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes; as follows:

Amend the title so as to read: ''To authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes.''.

SA 2230. Mr. FRIST (for Mr. LEVIN) proposed an amendment to the bill S. 1267, to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; as follows:

At the appropriate place, insert the following: (p. 10, after l. 2)

SEC. ___. METERED CABS IN THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Except as provided in subsection (b) and not later than 1 year after the date of enactment of this Act, the District of Columbia shall require all cabs licensed in the District of Columbia to charge fares by a metered system.

(b) DISTRICT OF COLUMBIA OPT OUT.—The District of Columbia may cancel the requirements of subsection (a) by adopting an ordinance that specifically states that the District of Columbia opts out of the requirement to implement a metered system under subsection (a).

SA 2231. Mr. FRIST (for Mr. HATCH) proposed an amendment to the bill S. 1177, to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes; as follows:

On page 17, between lines 23 and 24, insert the following:

(2) in paragraph (5)—

(A) by inserting '', local, or Tribal'' after ''the State'';

(B) by striking ''administer the cigarette tax law'' and inserting ''collect the tobacco tax or administer the tax law''; and

(C) by inserting '', locality, or Tribe, respectively'' after ''a State''.

On page 17, line 24, strike ''(2)'' and insert ''(3)''.

On page 18, line 17, strike ''(3)'' and insert ''(4)''.

On page 19, strike line 20 and insert the following:

of the United States.

''(13) The term 'Indian Country' has the meaning given that term in section 1151 of title 18, United States Code, except that within the State of Alaska that term applies only to the Metlakatla Indian Community, Annette Island Reserve.

''(14) The term 'Indian Tribe', 'Tribe', or 'Tribal' refers to an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (Public Law 103–454; 25 U.S.C. 479a–1).

''(15) The term 'tobacco tax administrator', in the case of a State, local, or Tribal government, means the official of the government duly authorized to collect the tobacco tax or administer the tax law of the government.''.

On page 20, line 4, strike ''and''.

On page 20, between lines 4 and 5, insert the following:

(ii) by inserting '', locality, or Indian Country of an Indian Tribe'' after ''a State''; and

On page 20, line 5, strike ''(ii)'' and insert ''(iii)''.

On page 20, strike lines 8 through 14 and insert the following:

(B) in paragraph (1)—

(i) by striking ''administrator of the State'' and inserting ''administrators of the State and place''; and

(ii) by striking ''; and'' and inserting the following: '', as well as telephone numbers for each place of business, a principal electronic mail address, any website addresses, and the name, address, and telephone number of an agent in the State authorized to accept service on behalf of such person;'';

On page 20, strike lines 15 through 19, and insert the following:

(C) in paragraph (2), by striking ''and the quantity thereof.'' and inserting ''the quantity thereof, and the name, address, and phone number of the person delivering the shipment to the recipient on behalf of the delivery seller, with all invoice or memoranda information relating to specific customers to be organized by city or town and by zip code; and''; and

(D) by adding at the end the following new paragraph:

''(3) with respect to each memorandum or invoice filed with a State under paragraph (2), also file copies of such memorandum or invoice with the tobacco tax administrators and chief law enforcement officers of the local governments and Indian Tribes operating within the borders of the State that apply their own local or Tribal taxes on cigarettes or smokeless tobacco.''; and

On page 21, line 4, strike ''Each'' and insert ''With respect to delivery sales into a specific State and place, each''.

On page 21, line 9, insert '', local, Tribal,'' after ''all State''.

On page 21, beginning on line 10, strike ''that occur entirely within the State'' and insert ''as if such delivery sales occurred entirely within the specific State and place''.

On page 21, strike line 14.

On page 21, line 15, strike ''(C)'' and insert ''(B)''.

On page 21, line 17, strike ''(D)'' and insert ''(C)''.

On page 22, line 3, strike ''AND SALES''.

On page 22, line 14, strike ''by State'' and insert ''by the State, and within such State, by the city or town and by zip code,''.

On page 22, beginning on line 20, strike ''attorneys general'' and all that follows through ''United States'' and insert ''to local governments and Indian Tribes that apply their own local or Tribal taxes on cigarettes or smokeless tobacco, to the attorneys general of the States, to the chief law enforcement officers of such local governments and Indian Tribes, and to the Attorney General of the United States''.

On page 22, strike line 24 and all that follows through page 23, line 12, and insert the following:

''(d)(1) Except as provided in paragraph (2), no cigarettes or smokeless tobacco may be delivered pursuant to a delivery sale in interstate commerce unless in advance of the delivery—

''(A) any cigarette or smokeless tobacco excise tax that is imposed by the State in which the cigarettes or smokeless tobacco are to be delivered has been paid to the State;

''(B) any cigarette or smokeless tobacco excise tax that is imposed by the local government of the place in which the cigarette or smokeless tobacco are to be delivered has been paid to the local government; and

''(C) any required stamps or other indicia that such excise tax has been paid are properly affixed or applied to the cigarettes or smokeless tobacco.

''(2) Paragraph (1) does not apply to a delivery sale of smokeless tobacco if the law of the State or local government of the place where the smokeless tobacco is to be delivered requires or otherwise provides that delivery sellers collect the excise tax from the consumer and remit the excise tax to the State or local government, and the delivery seller complies with the requirement.

On page 23, line 13, insert after ''Each State'' the following: '', and each local government or Indian Tribal government that levies a tax subject to subsection (a)(3),''.

On page 23, line 15, strike ''such State. If a State'' and insert after ''such State, locality, or Indian Tribe. If a State, local government, or Indian Tribe''.

On page 23, line 18, insert after ''such State'' the following: ''or locality or in the Indian Country of such Indian Tribe''.

On page 23, line 20, insert after ''Each State'' the following: '', and each local government or Indian Tribal government that levies a tax subject to subsection (a)(3),''.

On page 23, line 22, insert '', locality, or Indian Tribe'' after ''such State''.

On page 23, line 23, insert after ''A State'' the following: '', locality, or Indian Tribal government''.

On page 24, line 4, insert after ''a State'' the following: '', local government, or Indian Tribal government''.

On page 24, line 8, insert after ''State'' the following: ''or locality or in the Indian Country of such Indian Tribe''.

On page 24, strike line 21 and all that follows through page 25, line 2, and insert the following:

(2) in subsection (a), as so designated—

(A) by inserting ''(except for a State, local, or Tribal government)'' after ''this Act''; and

(B) by striking ''shall be guilty of a misdemeanor and shall be fined not more than $1,000, or imprisoned not more than 6 months'' and inserting ''shall be guilty of a felony, fined under subchapter C of chapter 227 of title 18, United States Code, imprisoned not more than three years, or both''; and

On page 26, strike line 3 and all that follows through page 27, line 11, and insert the following:

''(b) The Attorney General of the United States shall administer and enforce the provisions of this Act.

''(c)(1)(A) A State, through its attorney general (or a designee thereof), or a local government or Indian Tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer (or a designee thereof), may bring an action in the United States district courts to prevent and restrain violations of this Act by any person (or by any person controlling such person) or to obtain any other appropriate relief from any person (or from any person controlling such person) for violations of this Act, including civil penalties, money damages, and injunctive or other equitable relief.

''(B) Nothing in this Act shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian Tribe against any unconsented lawsuit under this Act, or otherwise to restrict, expand, or modify any

sovereign immunity of a State or local government or Indian Tribe.

''(2) A State, through its attorney general, or a local government or Indian Tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer (or a designee thereof), may provide evidence of a violation of this Act by any person not subject to State, local, or Tribal government enforcement actions for violations of this Act to the Attorney General of the United States or a United State Attorney, who shall take appropriate actions to enforce the provisions of this Act.

''(3)(A) Notwithstanding any other provision of law and subject to subparagraph (B), an amount equal to 50 percent of any criminal and civil penalties collected by the United States Government in enforcing the provisions of this Act shall be available to the Department of Justice for purposes of enforcing the provisions of this Act and other laws relating to contraband tobacco products.

''(B) Of the amount available to the Department under subparagraph (A), not less than 50 percent shall be made available only to the agencies and offices within the Department that were responsible for the enforcement actions in which the penalties concerned were imposed.

''(4) The remedies available under this subsection are in addition to any other remedies available under Federal, State, local, Tribal, or other law.

''(5) Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

''(6) Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian Tribal government official to proceed in Tribal court, or take other enforcement actions, on the basis of an alleged violation of Tribal law.

''(7) Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

''(d) Any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 may bring an action in the United States district courts to prevent and restrain violations of this Act by any person (or by any person controlling such person) other than a State, local, or Tribal government.

''(e)(1) Any person who commences a civil action under subsection (d) shall inform the Attorney General of the United States of the action.

''(2) It is the sense of Congress that any attorney general of a State, or chief law enforcement officer of a locality or Tribe, who commences a civil action under this section should inform the Attorney General of the United States of the action.

''(f)(1) The Attorney General of the United States shall make available to the public, by posting such information on the Internet and by other means, information about all enforcement actions undertaken by the Attorney General or United States Attorneys, or reported to the Attorney General, under this section, including information on the resolution of such actions and, in particular, information on how the Attorney General and the United States Attorney have responded to referrals of evidence of violations pursuant to subsection (b)(2).

''(2) The Attorney General shall submit to Congress each year a report containing the information described in paragraph (1).''.

On page 27, line 20, strike ''The transmission'' and insert ''(1)'' Except as provided in paragraph (2), the transmission''.

On page 28, strike line 2 and insert the following:

shall not be deposited in or carried through the mails.

''(2) Paragraph (1) shall apply only to States that are contiguous with at least one other State of the United States.''.

On page 29, line 4, strike ''and''.

On page 29, line 25, insert before the semicolon the following: ''or, for smokeless tobacco found in Indian Country, is licensed or otherwise authorized by the Tribal government of such Indian Country to account for and pay smokeless tobacco taxes imposed by the Tribal government''.

On page 30, line 6, insert ''or a Tribe'' after ''a State''.

On page 30, beginning on line 8, strike ''or a State (including any political subdivision of a State)'' and insert ''a State (including any political subdivision of a State), or a Tribe (including any political subdivision of a Tribe)''.

On page 30, line 11, strike ''duties.'' and insert ''duties;''.

On page 30, after line 24, add the following:

(c) ADDITIONAL DEFINITIONAL MATTERS.—Section 2341 of such title is further amended—

(1) in paragraph (2), as amended by subsection (a)(1) of this section—

(A) in the matter preceding subparagraph (A), by striking ''State cigarette taxes in the State where such cigarettes are found, if the State'' and inserting ''State, local, or Tribal cigarette taxes in the State, locality, or Indian Country where such cigarettes are found, if the State, local or Tribal government'';

(B) in subparagraph (C)(i), by inserting before the semicolon the following: '', or, for cigarettes found in Indian County, is licensed or otherwise authorized by the Tribal government of such Indian Country to account for and pay cigarette taxes imposed by the Tribal government''; and

(C) in subparagraph (D)—

(i) by inserting ''or a Tribe'' after ''a State'' the first place it appears; and

(ii) by striking ''or a State (or any political subdivision of a State)'' and inserting '', a State (or any political subdivision of a State), or a Tribe (including any political subdivision of a Tribe)'';

(2) in paragraph (3), by inserting before the semicolon the following: '', or, for a carrier making a delivery entirely within Indian Country, under equivalent operating authority from the Indian Tribal government of such Indian Country''; and

(3) by adding at the end the following new paragraphs:

''(8) the term 'Indian Country' has the meaning given that term in section 1151 of title 18, United States Code, except that within the State of Alaska that term applies only to the Metlakatla Indian Community, Annette Island Reserve; and

''(9) the term 'Indian Tribe', 'Tribe', or 'Tribal' refers to an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (Public Law 103–454; 25 U.S.C. 479a–1).''.

On page 31, line 1, strike ''(c)'' and insert ''(d)''.

On page 32, line 20, insert before the period the following: '', and to the chief law enforcement officer and tax administrator of the Tribe for shipments, deliveries or distributions that originated or concluded on the Indian Country of the Indian Tribe''.

On page 33, line 19, strike ''(d)'' and insert ''(e)''.

On page 34, between lines 3 and 4, insert the following:

(f) EFFECT ON STATE, LOCAL, AND TRIBAL LAW.—Section 2345 of that title is amended—

(1) in subsection (a), by striking ''a State to enact and enforce'' and inserting ''a State, local government, or Tribe to enact and enforce its own''; and

(2) in subsection (b), by striking ''of States, through interstate compact or otherwise, to provide for the administration of State'' and inserting ''of State, local, or Tribal governments, through interstate compact or otherwise, to provide for the administration of State, local, or Tribal''.

On page 34, line 4, strike ''(e)'' and insert ''(g)''.

On page 34, line 10, insert after ''attorney general,'' the following: ''a local government or Indian Tribe, through its chief law enforcement officer (or a designee thereof),''.

On page 34, line 15, insert before the period the following: '', except that any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 may not bring such an action against a State, local, or Tribal government''.

On page 34, line 16, insert after ''attorney general,'' the following: '', or a local government or Indian Tribe, through its chief law enforcement officer (or a designee thereof),''.

On page 34, line 21, add after the period the following: ''Nothing in this chapter shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian Tribe against any unconsented lawsuit under this chapter, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian Tribe.''.

On page 34, line 23, insert ''local, Tribal,'' after ''State,''.

On page 35, strike lines 1 through 4 and insert the following:

''(4) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

''(5) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian Tribal government official to proceed in Tribal court, or take other enforcement actions, on the basis of an alleged violation of Tribal law.

''(6) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.''.

On page 35, line 5, strike ''(f)'' and insert ''(h)''.

On page 35, between lines 8 and 9, insert the following:

(2) The section heading for section 2345 of such title is amended to read as follows:

''§ 2345. Effect on State, Tribal, and local law''.

On page 35, strike lines 9 through the matter preceding line 12 and insert the following:

(3) The table of sections at the beginning of chapter 114 of that title is amended—

(A) by striking the item relating to section 2343 and inserting the following new item:

''2343. Recordkeeping, reporting, and inspection.'';

and

(B) by striking the item relating to section 2345 and insert the following new item:

''2345. Effect on State, Tribal, and local law.''.

On page 35, line 12, strike ''(3)'' and insert ''(4)''.

On page 35, strike line 20 and all that follows through page 37, line 19, and insert the following:

SEC. 5. COMPLIANCE WITH MODEL STATUTE OR QUALIFYING STATUTE.

(a) IN GENERAL.—A Tobacco Product Manufacturer or importer may not sell in, deliver

to, or place for delivery sale, or cause to be sold in, delivered to, or placed for delivery sale in, a State that is a party to the Master Settlement Agreement any cigarette manufactured by a Tobacco Product Manufacturer that is not in full compliance with the terms of the Model Statute or Qualifying Statute enacted by such State requiring funds to be placed into a qualified escrow account under specified conditions, or any regulations promulgated pursuant to such terms.

(b) JURISDICTION TO PREVENT AND RESTRAIN VIOLATIONS.—(1) The United States district courts shall have jurisdiction to prevent and restrain violations of subsection (a) in accordance with this subsection.

(2) A State, through its attorney general, may bring an action in the United States district courts to prevent and restrain violations of subsection (a) by any person (or by any person controlling such person).

(3) In any action under paragraph (2), a State, through its attorney general, shall be entitled to reasonable attorney fees from a person found to have willfully and knowingly violated subsection (a).

(4) The remedy available under paragraph (2) is in addition to any other remedies available under Federal, State, or other law.

(5) Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court or taking other enforcement actions on the basis of an alleged violation of State or other law.

(6) The Attorney General may administer and enforce subsection (a).

(c) DEFINITIONS.—In this section:

On page 38, between lines 6 and 7, insert the following:

(3) IMPORTER.—The term ''importer'' means each of the following:

(A) Any person in the United States to whom non-tax-paid tobacco products manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned.

(B) Any person who removes cigars or cigarettes for sale or consumption in the United States from a customs bonded manufacturing warehouse.

(C) Any person who smuggles or otherwise unlawfully brings tobacco products into the United States.

On page 38, line 7, strike ''(3)'' and insert ''(4)''.

On page 38, line 11, strike ''(4)'' and insert ''(5)''.

On page 39, line 1, strike ''(5)'' and insert ''(6)''.

On page 41, strike line 18 and insert the following:

SEC. 8. COMPLIANCE WITH TARIFF ACT OF 1930.

(a) INAPPLICABILITY OF EXEMPTIONS FROM REQUIREMENTS FOR ENTRY OF CERTAIN CIGARETTES.—Subsection (b)(1) of section 802 of the Tariff Act of 1930 (19 U.S.C. 1681a) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to any cigarettes sold in connection with a delivery sale (as that term is defined in section 1 of the Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the 'Jenkins Act')).''.

(b) STATE AND TRIBAL ACCESS TO CUSTOMS CERTIFICATIONS.—Section 802 of that Act is further amended by adding at the end the following new subsection:

''(d) STATE AND TRIBAL ACCESS TO CUSTOMS CERTIFICATIONS.—A State, through its attorney general, and an Indian tribe (as that term is defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) through its chief law enforcement officer, shall be entitled to obtain copies of any certification required pursuant to subsection (c) directly—

''(1) upon request to the agency of the United States responsible for collecting such certification; or

''(2) upon request to the importer, manufacturer, or authorized official of such importer or manufacturer.''.

(c) ENFORCEMENT PROVISIONS.—Section 803 of such Act (19 U.S.C. 1681b) is amended—

(1) in subsection (b)—

(A) in the first sentence—

(i) by inserting ''any of'' before ''the United States'' the first and second places it appears; and

(ii) by inserting before the period the following: '', to any State in which such tobacco product, cigarette papers, or tube was imported, or to the Indian Tribe of any Indian Country (as that term is defined in section 1151 of title 18, United States Code) in which such tobacco product, cigarette papers, or tube was imported''; and

(B) in the second sentence, by inserting '', or to any State or Indian Tribe,'' after ''the United States''; and

(2) by adding at the end the following new subsection:

''(c) ACTIONS BY STATES AND OTHERS.—

''(1) IN GENERAL.—Any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 may bring an action in the United States district courts to prevent and restrain violations of this title by any person (or by any person controlling such person), other than by a State, local, or Tribal government.

''(2) RELIEF FOR STATE, LOCAL, AND TRIBAL GOVERNMENTS.—A State, through its attorney general, or a local government or Tribe Tribe, through its chief law enforcement officer (or a designee thereof), may in a civil action under this title to prevent and restrain violations of this title by any person (or by any person controlling such person) or to obtain any other appropriate relief for violations of this title by any person (or from any person controlling such person), including civil penalties, money damages, and injunctive or other equitable relief.

''(3) CONSTRUCTION GENERALLY.—

''(A) IN GENERAL.—Nothing in this subsection shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian Tribe against any unconsented lawsuit under this title or to otherwise restrict, expand, of modify any sovereign immunity of a State local government or Indian Tribe.

''(B) CONSTRUCTION WITH OTHER RELIEF.—The remedies available under this subsection are in addition to any other remedies available under Federal, State, local, Tribal, or other law.

''(4) CONSTRUCTION WITH FORFEITURE PROVISIONS.—Nothing in this subsection shall be construed to require a State or Indian Tribe to first bring an action pursuant to paragraph (1) when pursuing relief under subsection (b).

''(d) CONSTRUCTION WITH OTHER AUTHORITIES.—

''(1) STATE AUTHORITIES.—Nothing in this title shall be construed to expand, restrict, or otherwise modify the right of an authorized State official from proceeding in State court, or taking other enforcement actions, on the basis of alleged violation of State or other law.

''(2) TRIBAL AUTHORITIES.—Nothing in this title shall be construed to expand, restrict, or otherwise modify the right of an authorized Indian Tribal government official from proceeding in Tribal court, or taking other enforcement actions, on the basis of alleged violation of Tribal law.

(d) INCLUSION OF SMOKELESS TOBACCO.—(1) Sections 802 and 803(a) of such Act are further amended by inserting ''or smokeless tobacco products'' after ''cigarettes'' each place it appears.

(2) Section 802 of such Act is further amended—

(A) in subsection (a)—

(i) in paragraph (1), by inserting ''or section 4 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4403), respectively'' after ''section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a)'';

(ii) in paragraph (2), by inserting ''or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), respectively,'' after ''section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333)''; and

(iii) in paragraph (3), by inserting ''or section 3(c) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402(c)), respectively,'' after ''section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333(c))'';

(B) in subsection (b)—

(i) in the paragraph caption of paragraph (1), by inserting ''OR SMOKELESS TOBACCO'' after ''CIGARETTES''; and

(ii) in the paragraph caption of paragraphs (2) and (3), by inserting ''OR SMOKELESS TOBACCO'' after ''CIGARETTES''; and

(C) in subsection (c)—

(i) in the subsection caption, by inserting ''OR SMOKELESS TOBACCO'' after ''CIGARETTE'';

(ii) in paragraph (1), by inserting ''or section 4 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4403), respectively'' after ''section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a)'';

(iii) in paragraph (2)(A), ''or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), respectively,'' after ''section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333)''; and

(iv) in paragraph (2)(B), by inserting ''or section 3(c) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402(c)), respectively'' after ''section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333(c))''.

(3) Section 803(c) of such Act, as amended by subsection (b)(1) of this section, is further amended by inserting '', or any smokeless tobacco product,'' after ''or tube'' the first place it appears.

(4)(A) The heading of title VIII of such Act is amended by inserting ''**AND SMOKELESS TOBACCO**'' after ''**CIGARETTES**''.

(B) The heading of section 802 of such Act is amended by inserting ''**AND SMOKELESS TOBACCO**'' after ''**CIGARETTES**''.

SEC. 9. EXCLUSIONS REGARDING INDIAN TRIBES AND TRIBAL MATTERS.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act is intended nor shall be construed to affect, amend, or modify—

(1) any agreements, compacts, or other intergovernmental arrangements between any State or local government and any government of an Indian tribe (as that term is defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) relating to the collection of taxes on cigarettes or smokeless tobacco sold in Indian Country (as that term is defined section 1151 of title 18, United States Code);

(2) any State laws that authorize or otherwise pertain to any such intergovernmental arrangements or create special rules or procedures for the collection of State, local, or tribal taxes on cigarettes or smokeless tobacco sold in Indian Country;

(3) any limitations under existing Federal law, including Federal common law and treaties, on State, local, and tribal tax and regulatory authority with respect to the sale, use, or distribution of cigarettes and smokeless tobacco by or to Indian Tribes or tribal members or in Indian Country;

(4) any existing Federal law, including Federal common law and treaties, regarding State jurisdiction, or lack thereof, over any Tribe, tribal members or tribal reservations; and

(5) any existing State or local government authority to bring enforcement actions against persons located in Indian Country.

(b) COORDINATION OF LAW ENFORCEMENT.—Nothing in this Act or the amendments made by this Act shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by 1 or more States or other jurisdictions, including Indian Tribes, through interstate compact or otherwise, that—

(1) provides for the administration of tobacco product laws or laws pertaining to interstate sales or other sales of tobacco products;

(2) provides for the seizure of tobacco products or other property related to a violation of such laws; or

(3) establishes cooperative programs for the administration of such laws.

(c) TREATMENT OF STATE AND LOCAL GOVERNMENTS.—Notwithstanding any other provision of this Act, the provisions of this Act are not intended and shall not be construed to authorize, deputize, or commission States or local governments as instrumentalities of the United States.

(d) ENFORCEMENT WITHIN INDIAN COUNTRY.—Nothing in this Act or the amendments made by this Act is intended to prohibit, limit, or restrict enforcement by the Attorney General of the United States of the provisions herein within Indian Country.

(e) AMBIGUITY.—Any ambiguity between the language of this section or its application, and any other provision of this Act shall be resolved in favor of this section.

SEC. 10. EFFECTIVE DATE.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on December 9, 2003, at 9:30 a.m., to conduct a hearing on the nominations of Ms. April H. Foley, of New York, to be first Vice President of the Export-Import Bank of the United States; and the Honorable Joseph Max Cleland, of Georgia, to be a member of the board of directors of the Export-Import Bank of the United States.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, be authorized to meet on Tuesday, December 9, 2003, at 10 a.m. for a hearing entitled, ''Fair or Foul: The Challenge of Negotiating, Monitoring, and Enforcing U.S. Trade Laws.''

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

UNANIMOUS CONSENT AGREEMENT—H.R. 3108

Mr. FRIST. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the minority leader, the Senate proceed to consideration of H.R. 3108, the House-passed pensions bill, and that it be considered under the following limitations: That the only amendments in order be relating to the following topics: pension discount rate, deficit reduction contribution relief, multi-employer plan relief. I further ask that the following amendments be the only first-degree amendments in order and that any second-degree amendments be relevant to the first-degree amendment to which they are offered: No. 1, Frist-Daschle managers' amendment; three amendments by the majority leader or his designee; and three amendments by the minority leader or his designee.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, reserving the right to object—and I certainly will not—I just wish to indicate to the majority leader how pleased I am that at long last we have been able to get to this point. This has been a very difficult negotiation involving many Members. I think it is very important that we ultimately accomplish the passage of this legislation. This obviously does not bring us to a point where we will finalize the bill, but I think it sets us up in a way that will allow the completion of our work shortly after we return. That is the message we need to send on a bipartisan basis, and I appreciate the majority leader's leadership in getting us to this point. I will work with him as we coordinate the amendment time and debate, but I hope we can do this soon after we return. I expect we will complete our work at some point shortly after that. I thank him, and I have no objection.

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

Mr. FRIST. Mr. President, in the weeks leading up to the Thanksgiving holiday, and in the time since then, we have been trying to reach an agreement with respect to pension funding rules. As many of my colleagues are aware, the temporary pension discount rate relief we enacted in 2001 expires at the end of this year. There is virtually unanimous agreement that we need to replace the outdated 30 year treasury bill rate with a long-term corporate bond rate. However, absent some action by the House and the Senate, the statutory rate that pension plans must use to calculate their assets and liabilities will snap-back to the old 30-year rate. This will result in companies with pension plans having to assume that they will be making large contributions to their plans in the year to come.

Equally important, in my view, has been an effort to provide relief from the deficit reduction contribution, DRC, requirements that certain plans are now facing. Under the current pension funding rules, companies that offer defined benefit pension plans are required to make additional contributions to those plans when they are less than 90 percent funded. A pension plan's funding level is determined by comparing the plan's current assets to its promised benefits and then calculating whether the two will match up by the time the benefits promised are due.

The recent drop in the stock market, low interest rates, and generous pension benefits agreed to in better times have caused many defined benefit pension plans to fall well beneath this 90 percent threshold. As a result, many companies are being required to make substantial additional contributions at the time they can least afford them. The Finance Committee-reported bill, which I support, included 3 years of DRC relief.

Despite our best efforts, it is clear that we will not be able to reach an agreement before the end of the year. We have, however, entered into a unanimous consent agreement that gives us a plan for addressing this issue when we return early next year. It is my belief that this issue can be wrapped up with one or two days of debate and that a conference agreement should follow shortly thereafter.

Replacing the current 30-year Treasury rate with a long-term corporate bond rate is a critically important issue, not only to the companies themselves but their employees as well. Equally important, however, is the broader pension bill upon which Senator GRASSLEY and Senator BAUCUS have worked so hard. Resolution of this more immediate issue is but a precursor to consideration of the larger pension reform bill. And even this is but a prelude to an effort to take a broader look at our nation's pension funding rules with an eye toward making more systematic reforms. I look forward to a spirited debate next year as we take the first step in this broader undertaking.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that during the upcoming adjournment of the Senate, all nominations remain status quo, with the following exceptions which I send to the desk: Colonel Quelly, PN 273–108; Colonel Rubino, PN 299–108; Brigadier General Meyer, PN 750–108; Colonel Baldwin, PN 1035–108; Claude Allen, PN 92 and PN 534; Jeane Kirkpatrick, PN 788; Louise Oliver, PN 943; Peter Eide, PN 617 and PN 104; Neil McPhie, PN 103; Calendar Nos. 219, 233, 234, 235, 236, 480, and 484.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 132, 199, 200, 316, 410, 417, 419, 421, 434, 435, 451, 452, 453, 454, 456, 458, 459, 460, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 475, 476, 477, 479, 483, 485, 486, 487, 489, 491, 492, 493, 494, 510, 526, 527, 529, 532, and 474.

NOMINATIONS DISCHARGED

I further ask unanimous consent that the following nominations be discharged from the Foreign Relations Committee and the Senate proceed to the nominations en bloc: David Mulford, PN 1110; James Oberwetter, PN 1113; further, that the following nominations be discharged from the Banking Committee and the Senate proceed to their consideration: April Foley, PN 1155; Joseph Max Cleland, PN 1154.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Bruce E. Kasold, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims for the term prescribed by law.

AFRICAN DEVELOPMENT FOUNDATION

Ephraim Batambuze, of Illinois, to be a Member of the Board of Directors of the African Development Foundation for a term expiring February 9, 2008.

John W. Leslie, Jr., of Connecticut, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2007.

DEPARTMENT OF LABOR

Howard Radzely, of Maryland, to be Solicitor for the Department of Labor.

THE JUDICIARY

George W. Miller, of Virginia, to be a Judge of the United States Court of Federal Claims for the term of fifteen years.

DEPARTMENT OF THE INTERIOR

David Wayne Anderson, of Minnesota, to be an Assistant Secretary of the Interior.

DEPARTMENT OF TRANSPORTATION

Karan K. Bhatia, of Maryland, to be an Assistant Secretary of Transportation.

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

Charles Darwin Snelling, of Pennsylvania, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority for the remainder of the term expiring May 30, 2006.

UNITED STATES SENTENCING COMMISSION

William K. Sessions III, of Vermont, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2009.

DEPARTMENT OF JUSTICE

David L. Huber, of Kentucky, to be United States Attorney for the Western District of Kentucky for the term of four years.

ELECTION ASSISTANCE COMMISSION

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

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

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

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

THE JUDICIARY

D. Michael Fisher, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

DEPARTMENT OF STATE

Edward B. O'Donnell, Jr., of Tennessee, a Career Member of the Senior Foreign Service, Class of Counselor, for the rank of Ambassador during his tenure of service as Special Envoy for Holocaust Issues.

Jon R. Purnell, of Massachusetts, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Uzbekistan.

Margaret DeBardeleben Tutwiler, of Alabama, to be Under Secretary of State for Public Diplomacy.

Louise V. Oliver, of the District of Columbia, for the rank of Ambassador during her tenure of service as the United States Permanent Representative to the United Nations Educational, Scientific, and Cultural Organization.

William J. Hudson, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tunisia.

Margaret Scobey, of Tennessee, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Syrian Arab Republic.

Thomas Thomas Riley, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco.

Jackie Wolcott Sanders, for the rank of Ambassador during her tenure of service as United States Representative to the Conference on Disarmament and the Special Representative of the President of the United States for Non-Proliferation of Nuclear Weapons.

Mary Kramer, of Iowa, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Kitts and Nevis, Saint Lucia, Antigua and Barbuda, the Commonwealth of Dominica, Grenada, and Saint Vincent and the Grenadines.

Timothy John Dunn, of Illinois, a Career Member of the Senior Foreign Service, Class of Counselor, for the rank of Ambassador during his tenure of service as Deputy Permanent Representative to the Organization of American States.

James Curtis Struble, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Peru.

INTER-AMERICAN DEVELOPMENT BANK

Hector E. Morales, of Texas, to be United States Alternate Executive Director of the Inter-American Development Bank.

DEPARTMENT OF STATE

Marguerita Dianne Ragsdale, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Djibouti.

Stuart W. Holliday, of Texas, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Jennifer Young, of Ohio, to be an Assistant Secretary of Health and Human Services.

Michael O'Grady, of Maryland, to be an Assistant Secretary of Health and Human Services.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Rixio Enrique Medina, of Oklahoma, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years.

DEPARTMENT OF JUSTICE

James B. Comey, of New York, to be Deputy Attorney General.

Federico Lawrence Rocha, of California, to be United States Marshal for the Northern District of California for the term of four years.

DEPARTMENT OF TRANSPORTATION

Jeffrey A. Rosen, of Virginia, to be General Counsel of the Department of Transportation.

CORPORATION FOR PUBLIC BROADCASTING

Elizabeth Courtney, of Louisiana, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2010.

Elizabeth Courtney, of Louisiana, 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.

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.

DEPARTMENT OF THE TREASURY

Arnold I. Havens, of Virginia, to be General Counsel for the Department of the Treasury.

OFFICE OF SPECIAL COUNSEL

Scott J. Bloch, of Kansas, to be Special Counsel, Office of Special Counsel, for the term of five years.

FEDERAL DEPOSIT INSURANCE CORPORATION

Thomas J. Curry, of Massachusetts, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of six years.

FEDERAL HOUSING FINANCE BOARD

Alicia R. Castaneda, of the District of Columbia, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2004.

Alicia R. Castaneda, of the District of Columbia, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2011.

THE JUDICIARY

Lawrence B. Hagel, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims for the term prescribed by law.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

David Eisner, of Maryland, to be Chief Executive Officer of the Corporation for National and Community Service.

Carol Kinsley, of Massachusetts, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2006.

Read Van de Water, of North Carolina, to be a Member of the National Medication Board for a term expiring July 1, 2006.

NATIONAL MEDIATION BOARD

Read Van de Water, of North Carolina, to be a Member of the National Medication Board for a term expiring July 1, 2006.

DEPARTMENT OF LABOR

Steven J. Law, of the District of Columbia, to be Deputy Secretary of Labor, vice Donald Cameron Findlay, resigned.

DEPARTMENT OF STATE

David C. Mulford, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to India.

James C. Oberwetter, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

EXPORT-IMPORT BANK

Joseph Max Cleland, of Georgia, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007.

April H. Foley, of New York, to be First Vice President of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 2005.

Mr. HATCH. Mr. President, I stand today in strong support of D. Michael Fisher, who has been nominated to serve for the U.S. Court of Appeals for the Third Circuit. Let me speak briefly about his background and the reasons I endorse his confirmation.

Attorney General Fisher has extensive legislative experience, having served for 22 years in the Pennsylvania General Assembly. He has also practiced in civil litigation for close to 20 years. Parenthetically, I would note my understanding that Attorney General Fisher's first law office was across the hall from my law office in Pittsburgh—the 9th floor of the Frick Building—in 1970. Since 1997, Attorney General Fisher has served as Pennsylvania Attorney General and he has been a great leader. He coauthored Pennsylvania's Megan's Law; he supported the passage of a State DNA postconviction statute; and he helped negotiate the landmark national tobacco settlement.

Attorney General Fisher's nomination is widely supported. His endorsers include Democratic Pennsylvania Governor Edward Rendell, the bipartisan 19-member Pennsylvania delegation to the U.S. House of Representatives, Pennsylvania State legislators, the Pennsylvania District Attorneys Association, and the Pennsylvania Trial Lawyers Association. He is also fully endorsed by serving attorneys general from across the country. The former attorney general of Tennessee, Charles W. Burson, who also served as legal counsel for former Vice President Gore, has written in support of Attorney General Fisher's nomination: ''While [Attorney General Fisher] and I may differ on particular issues, I am certain that as a Federal Appellate Judge, he will deliberately, and with an even hand, apply the law to the facts and render sound judgments.''

I cannot recall seeing such a range of support for a judicial nominee as Attorney General Fisher enjoys. It is truly impressive and speaks well of him.

I will support Attorney General Fisher's confirmation, and I urge my colleagues to do the same.

Mr. LEAHY. Mr. President, I am troubled today that the Senate is proceeding to a vote on the nomination of D. Michael Fisher to a lifetime appointment to the U.S. Court of Appeals for the Third Circuit, when there is an open verdict against him in a Federal civil rights case. While Mr. Fisher has considerable bipartisan support, it is unfortunate that the committee vote, and now the Senate vote, on his nomination could not have at least waited for the district court judge in the pending civil rights case to rule on Mr. Fisher's motion challenging the jury verdict against him.

Over the course of this year in the Judiciary Committee, we have seen a number of firsts. At the first nominations hearing of the year, for the first time ever, Republicans unilaterally scheduled three controversial circuit court nominees at one hearing contrary to a long-established agreement and practices of the committee. Then we saw Republicans declare that the longstanding committee rules protecting the rights of the minority would be broken when Rule IV was violated. A rule that was adopted 25 years ago—in order to balance the need to protect the minority members of the committee with the desire of the majority to proceed—was unilaterally reinterpreted to override the rights of the minority for the first time in our history. For the first time ever, this year, Republicans insisted on proceeding on nominations that the committee had previously voted upon and rejected after full and fair hearings and debate. Of course that followed the first ever resubmission by a President of the names of defeated nominees for appointment to those same judgeships.

Several other practices were reversed from when a Democratic President was making nominations in light of the Republican affiliation of the current President. This committee has proceeded on nominations that did not have the approval of both home-State Senators. Moreover, this committee altered its prior practice and overrode the objections of home-State Senators to vote on the nominations of Carolyn Kuhl in spite of the opposition of both home-State Senators. Then, in connection with a nomination to the circuit court from Michigan, this committee for the first time proceeded with a hearing in spite of the opposition of both home-State Senators.

The hearing on the nomination of Michael Fisher to the U.S. Court of Appeals for the Third Circuit was also unprecedented. Never before to my knowledge has a President nominated to a lifetime position on a Federal circuit court or this committee held a hearing on a judicial nominee with an outstanding jury verdict naming him as personally liable for civil rights violations. In February 2003, a Federal jury in the U.S. District Court for the Middle District of Pennsylvania found that Mr. Fisher and other high level officials of the Pennsylvania Office of the Attorney General violated the civil rights of two plaintiffs, former narcotics agents with the Bureau of Narcotics Investigation, BNI, in Philadelphia. Never before in the history of Federal judicial nominees of which I am aware, has a nominee ever come before this committee with an outstanding judgment against him for so serious a claim.

The jury verdict is so recent that the trial transcript was only delivered to the parties within the last several weeks, and so complex that even Mr. Fisher and his lawyers asked for extensions of time in order to complete their post-trial motions. Just 6 weeks ago, Mr. Fisher and the other defendants filed their brief in support of their motion for judgment as a matter of law or a new trial. Soon, the Federal district court trial judge will review the verdict against Mr. Fisher and make a decision on Mr. Fisher's motion. If the jury verdict is sustained by the district court judge, an appeal would lie to the very court to which Mr. Fisher has been nominated. Mr. Fisher has indicated that he intends to pursue all appellate options if the verdict is not reversed. These, too, appear to be unique circumstances.

Accordingly, this is a most unusual vote today. As the administration and Republican majority have abandoned traditional practices and standards, we are being confronted with more and more difficulties. The few judicial nominations on which the Senate has withheld a final vote this year have each presented extraordinary circumstances or nominees with extreme positions. During the years in which President Clinton was in the White House, Republicans attempted a number of filibusters and, when they were in the majority, successfully prevented votes on more than 60 judicial nominees, including a number of nominees to the Federal courts in Pennsylvania.

At Mr. Fisher's hearing, I indicated that I had not yet reached a determination about his nomination but was troubled by the jury verdict. I have now reviewed the trial transcript and materials from the civil rights case. Mr. Fisher has been found liable by a jury for violating the constitutional rights of his employees. Mr. Fisher testified at trial that he had knowledge of and approved of the actions found by the jury to be retaliatory. The jury found that he acted maliciously or wantonly and awarded the plaintiffs punitive damages. We should all be concerned about his ability to protect the constitutional rights of plaintiffs who may enter his courtroom. The trial court judgment is a significant piece of information in order for us to

evaluate Mr. Fisher's qualifications to a lifetime appointment on the federal bench. In all due respect to my friends on the other side of the aisle, I do not think that the courts or the American people gain by rushing the nomination through.

In addition to the pending civil rights judgment against him, I am concerned about other aspects of Mr. Fisher's record. He authored Pennsylvania's death penalty legislation as a State representative and has opposed placing a moratorium on the death penalty in Pennsylvania. He reiterated at his hearing and in response to my written questions that he does not believe that there is racial discrimination in the application of the death penalty in Pennsylvania or that innocent people are being sentenced in capital cases, despite repeated evidence to the contrary. I would like to take this opportunity to urge Mr. Fisher to take seriously the imposition of the death penalty and to do what he can to ensure that the death penalty is applied fairly.

Mr. Fisher has also indicated his opposition to gay rights and has advocated against benefits for same-sex partners. Mr. Fisher, however, has assured the committee that he would follow Supreme Court precedent recognizing that gays and lesbians have a constitutional right to be free from government intrusion into their private lives. I am hopeful that Mr. Fisher will be a person of his word: that he will follow the law and not seek out opportunities to overturn precedent or decide cases in accord with his private beliefs rather than his obligations as a judge. I also sincerely hope that Mr. Fisher will treat all those who appear before him with respect, and will not abuse the power and trust of his position.

The Senate has already confirmed two of President Bush's nominees to the Third Circuit, including one controversial circuit court nominee from Pennsylvania who had broken his promise to the committee about his membership in a discriminatory club. Yet, with Democratic support, the Senate has already confirmed 13 Federal district court nominees from Pennsylvania and 19 district court nominees in the Third Circuit.

A look at the Federal judiciary in Pennsylvania indicates that President Bush's nominees have been treated fairly and far better than President Clinton's. This treatment is in sharp contrast to the way vacancies in Pennsylvania were kept vacant during Republican control of the Senate when President Clinton was in the White House.

Despite the best efforts and diligence of the senior Senator from Pennsylvania, Senator SPECTER, to secure the confirmation of all of the judicial nominees from every part of his home state, there were 10 nominees by President Clinton to Pennsylvania vacancies who never got a vote: Patrick Toole, John Bingler, Robert Freedberg, Lynette Norton, Legrome Davis, David Fineman, David Cercone, Harry Litman, Stephen Lieberman, and Robert Cindrich to the Third Circuit. Despite how well-qualified these nominees were, they were never considered by the Senate, many waited more than a year for action.

Just last month, the Senate voted to confirm another nominee from Pennsylvania whose record raised serious concerns the nomination of Thomas Hardiman to the U.S. District Court for the Western District of Pennsylvania. That nominee came to us with no judicial experience, a relatively small amount of litigation experience and very low peer-review ratings by both the American Bar Association and the local Allegheny County Bar Association. Far too many of this President's judicial nominees seem to have similarly troubling records. In fact, 26 of this President's judicial nominees have earned partial or majority ''Not Qualified'' ratings from the ABA. Certainly, the citizens of Pennsylvania deserve a well-qualified judiciary to hear their important legal claims in federal court.

Unfortunately, Mr. Fisher's record—particularly the outstanding Federal civil rights verdict against him—raises concerns, just as the record of far too many of President Bush's judicial nominees. Yet, I have great respect for the senior Senator from Pennsylvania and appreciate his efforts to help shepherd the White House's nomination through the Senate. I have also heard from a number of other supporters of Mr. Fisher whose opinions I value that they believe him qualified to serve as a judge of the Third Circuit. He does have significant experience as an attorney, formerly serving as an Assistant District Attorney, as an attorney in private practice for over 27 years, and in the Pennsylvania General Assembly for 22 years. We are, again, treating this President's judicial nominees far more fairly than Republicans treated President Clinton's judicial nominees.

NOMINATION OF JAMES B. COMEY

Mr. HATCH. Mr. President, I am pleased that the Senate today confirmed James B. Comey as the Deputy Attorney General. James Comey brings a wealth of experience and perspective as a line prosecutor, as a manager in the U.S. Attorney's Office for the Eastern District of Virginia, and most recently as the U.S. attorney for the Southern District of New York. His record demonstrates that he is a leader, one who can inspire others to accomplish great things, and one who can oversee and manage an organization such as the Justice Department.

With the recent departure of Larry Thompson, who was a fine Deputy Attorney General, I am sure everyone shares my view that Mr. Comey has very big shoes to fill. However, I am confident that he is the right person for the job. His impressive background and past government service make me confident that he will be a great asset to the Department of Justice, the Judiciary Committee, and the American people.

The importance of the Deputy Attorney General within the Justice Department cannot be overstated. Over the years, the Deputy Attorney General's Office has played a greater role in overseeing the Department's operations, implementing new policy initiatives, and ensuring the effective enforcement of our criminal and civil laws.

A review of Mr. Comey's record establishes one simple fact—he is well qualified to serve as the Deputy Attorney General. Since January 2002, Mr. Comey has served as the U.S. attorney in the Southern District of New York, an office that many consider to be the premier U.S. Attorney's Office in the country. In the Southern District of New York, Mr. Comey has earned the respect of judges, defense counsel, and prosecutors for his professionalism, fairness and judgment. While serving as the U.S. attorney, Mr. Comey was responsible for leading his office in some of the more significant terrorism and white collar prosecutions.

Prior to assuming the position as the U.S. attorney, Mr. Comey served from 1996 to 2001, as managing assistant U.S. attorney, in charge of the Richmond Division of the U.S. Attorney's Office for the Eastern District of Virginia. From 1993 to 1996, Mr. Comey was an associate and later a partner at the law firm of McGuire Woods in Richmond, VA. Early in his career, from 1987 to 1993, Mr. Comey served as an assistant U.S. attorney in the Southern District of New York.

As a Federal prosecutor, Mr. Comey investigated and prosecuted a wide variety of cases, including firearms, narcotics, major frauds, violent crime, public corruption, terrorism, and organized crime. In the Eastern District of Virginia, he handled the Khobar Towers terrorist bombing case, arising out of the June 1996 attack of a U.S. military facility in Saudi Arabia in which 19 airmen were killed.

Mr. Comey was educated at William & Mary, B.S. with honors 1982, chemistry and religion majors, and the University of Chicago Law School, J.D. 1985. After law school, he clerked for then-U.S. District Judge John Walker in Manhattan.

Let me take one moment to highlight perhaps Mr. Comey's most important accomplishment. While serving his country in a variety of prosecutorial positions, he has demonstrated that he is a dedicated family man. He and his lovely wife, Patrice, are raising five wonderful children, ranging in age from 15 to as young as 3 years old.

Mr. Comey is a dedicated public servant, and a talented and well-respected prosecutor. He is uniquely qualified to lead as the Deputy Attorney General of the Justice Department.

Mr. DASCHLE. Mr. President, I am very pleased that we have been able to

make what I consider real progress on the Executive Calendar. There is still work to be done, but I think this represents a very important compromise in the effort to try to find the bipartisan balance in these nominations that is key to success, regardless of the session or regardless of the Congress itself.

There are still many Democrats whose nominations are languishing either in the White House or in committee. It is troubling that we have had the difficulty, in many cases, that has precluded greater progress on those and other nominations over the course of the last several months. I hope, as we begin the second session of the Congress, we can expedite many of these nominees. I certainly will redouble our efforts to work with the White House and to accommodate whatever concerns they may have with regard to some nominations, and certainly with regard to their own list of nominees who ought to be considered in an expeditious way. So we will continue to work.

I hope the White House in particular recognizes the importance of reciprocity and the fact that the nominations must be a two-way street. Democratic and Republican nominations deserve expeditious consideration, and it would be a real opportunity to set that tone and to send that message as we consider the Executive Calendar again early next year.

I yield the floor.

Mr. FRIST. Mr. President, I wish to comment very briefly on the nominations. We have made real progress as we were able to clear the degree of nominations that we did. There are several district judges I would like to have cleared, but the understanding is that when we come back we will be able to address those very early on. That is the understanding we reached this afternoon. These judges are very important for us to address. We will be addressing those as soon as we come back.

ACCOMPLISHMENTS IN THE FIRST SESSION OF THE 108TH CONGRESS

Mr. FRIST. Mr. President, I want to talk a little bit about the 108th Congress because we are about to draw to a close once we complete some of the final paperwork. I think it is a good time for me to review just a bit of what we have been able to accomplish and what has been really a truly exceptional legislative session. People have worked very hard; they have stayed very focused, and I believe anyone looking back will have to say that over the last 11 months we really have been able to serve the American people well and, in many ways, capped by the historic enactment of the Medicare prescription drug bill just yesterday.

For the first time in the 40-year history of the Medicare Program, with which I am very familiar because of my profession before coming to the Senate, Medicare will offer prescription drug coverage, which is the most powerful tool in American medicine today. That will be offered to America's 40 million seniors and individuals with disabilities through the Medicare Program. It is a monumental achievement that I can stand before this body today and say we have accomplished with the signing of that Medicare bill yesterday.

America's seniors will also have, for the first time, the option under Medicare of choosing a health care plan, or the type of coverage that can best suit their individual needs. Everybody's individual needs are very different. We have moved Medicare in the direction that allows this sort of flexibility, the individual attention, the responsiveness to individual needs. The seniors and the individuals on disability will now have that choice. These are reforms. This is a modernization, a strengthening and improving of Medicare, but they are indeed reforms.

That is why I say this is a monumental piece of legislation. It is the most significant reform since the beginning of that program in 1965. Although there was a lot of what I guess you could call partisanship expressed in the development of the bill, it was healthy debate on both sides; and ultimately the bill was generated by the hard work and dedication of both sides of the aisle.

I thank my fellow Senators, my colleagues, for their leadership and praise them for stepping forward and addressing an issue that so directly impacts the 40 million seniors and the almost 80 million baby boomers who will be coming through over the next 30 years.

It is that responsiveness, with action and with solutions, that indeed makes me proud as a Senator, and especially as majority leader of the Senate. It is an honor to be able to go back to the American people and say we delivered. It is not perfect. Everybody knows it is not perfect. But we delivered on what affects your lives in terms of your needs and in a way that is reflective of the tremendous talent in this body.

Back in January, we set an ambitious agenda. We said we needed to get the economy back on track; we needed to lend the critical support of this body to the war on terror; we needed to promote public health here as well as abroad. Most colleagues have heard me say that our mission under the current leadership is to move America forward and in a way that serves the cause of freedom and the cause of liberty. You can write it on a little card and carry it in your pocket. It is simple and easy to understand. That is what we collectively in this body set out to do—to expand freedom, to expand opportunity, to strengthen Americans' security.

Eleven months later, in looking back, we have done just that. We have made great strides on those goals, but it is sort of a halfway point. We set goals and we are moving toward them aggressively. We did so by respecting the longstanding Senate values of civility and trust—again, with healthy debate but civility and trust.

By building strong and reliable and dependable relationships, each of us is going to be able to go home and visit with our constituents and with the families, the people who elected us, and be proud of the accomplishments we have achieved over the last 11 months.

The year started out with us having to pass 12 of the 13 spending bills left undone by the previous Congress. We passed 11 of those bills in just the first 3 weeks. We also passed a budget to establish a blueprint of creating jobs, of investing in homeland security, of investing in education, of providing a Medicare prescription drug benefit and coverage, offering health insurance as well for America's children.

With that unfinished business of the last Congress complete, we turned our attention to the President's jobs and growth agenda. Indeed, working with the President and under the President's leadership and his vision, we passed $350 billion in tax relief this year which is the third largest tax relief package. The third largest tax cut in the history of this country this Congress passed. Everybody—all of my colleagues, people listening now, people who will read the CONGRESSIONAL RECORD in the next several days—everybody who is paying taxes pays less taxes today than they did 11 months ago.

It was across the board. Yes, it was capital gains; it was affecting the marginal rates as well across the board. Mr. President, 136 million hard-working taxpaying Americans had their taxes cut. It did focus on families as well. We increased the child tax credit from $600 per child to $1,000 per child. We accomplished that this year.

A lot of people don't realize those rebate checks were sent out immediately and, as a result, this summer 25 million families received checks from the U.S. Treasury of up to $400 per child, going from $600 to $1,000, and an additional check of $400. In total, we returned 13.7 billion tax dollars to families all across the country. That was just the start.

Under that Jobs and Growth Act of 2003, a family of 4 making $40,000 will see their taxes reduced by $1,130 this year. Of the overall $350 billion in tax cuts in fiscal relief, the bulk of it was moved forward, and nearly $200 billion, fully 60 percent, is provided this year and next.

There have been critics of the tax cut. Some say $1,300 is not a lot of money you are returning; $1,300 is just not a lot; that is not going to make a big difference in somebody's life; and it wouldn't make a big difference if the bureaucrats took it away again. Tell that to the families working hard every day to raise children in this day and time, those families who are working hard to pay those household expenses. They are working hard just to have a little bit of money to take their family on vacation.

I can almost guarantee that the U.S. Treasury didn't get a flurry of checks

in the mail from families who said: No, I don't need that check you just sent me; no, America's families can use it. And they did use it.

Small business owners, as well, got a major boost from the tax package. Mr. President, 23 million small business owners who pay taxes at the individual rates saw their taxes lowered. We quadrupled the expense deduction for small business investment. It had a huge impact. We receive e-mails and letters every week about the impact this single issue, this expense deduction has for small business investment.

I think we all know small business owners are the engine of growth; they are the heart of the American marketplace. Workers and consumers depend on that small business sector to generate jobs, products, and services. Small business innovators create as much as 60 percent to as high as 80 percent of new jobs nationwide, and they generate more than 50 percent of the gross domestic product of this country. By cutting taxes and by encouraging investment, we are helping unleash a tremendous economic power in this country: the economic power of individuals working together in their small businesses.

Taken together, this year's tax cut and the tax cuts of 2001 are providing an astonishing $1.7 trillion in tax relief over the next decade. We are beginning to see the results. We have already seen those results. We are right now in the midst of a strong economic recovery. Again, compared to 11 years ago, the jobs and growth package, the unleashing of the potential of small business and midsize and large business, of unleashing that individual hard work and spirit, we have an economic recovery.

Consumers today have more money in their pockets. Consumers' sentiment rose in November to the highest level since May 2002, and businesses, as well, are optimistic about the direction of the country, and with good cause.

Economic growth—again, I am comparing it to 11 months ago—economic growth in the third quarter soared—and that is the best word, ''soared''—at an incredible rate of 8.2 percent. That is the largest third quarter increase since 1984, in just about 20 years.

There is more money in one's pockets; disposable income is up 7.2 percent for the third quarter, and consumer spending is up a whopping 6.6 percent, the biggest third quarter growth since 1988. This November, sales of previously owned homes hit their third highest level on record. The National Association of Realtors reports that previously owned home sales rose 3.6 percent to a record annual rate of nearly 7 million units in September. Meanwhile, housing starts are nearing a 17-year high. I should repeat that. Housing starts are nearing a 17-year high.

The association credits the phenomenal growth in home sales to ''the powerful fundamentals that are driving housing markets: household growth, low interest rates, and an improving economy.''

This is great news for America's families and, incidentally, for America's businesses. When a family buys a home, their purchase not only benefits a community, it sets off a whole chain of purchases that help fuel the economy. They have to buy that living room furniture. They have to buy those kitchen appliances. They have to buy new beds and new curtains. They buy that washer and dryer. All of this is reflected in these new housing starts. Many related industries benefit from one family's momentous and gratifying decision to do what all of us envision as the American dream, and that is to buy a home.

Not only is individual consumption up, but the business sector is showing impressive signs of recovery. Nonresidential recovery is up 10 percent, business investment went up 11.1 percent in the third quarter, and productivity soared by 8.1 percent, its highest level in 20 years.

Businesses are rebuilding their inventories, and they are retooling their factories. And all of this economic activity ultimately leads to jobs. Indeed, the labor market appears to be stabilizing, and the economy is finally providing Americans with those much needed jobs.

Over the past 3 months, 286,000 new jobs came on line. In October alone, 126,000 jobs were added. Meanwhile, since the initial tax cut, initial claims for unemployment insurance have gone down more than 10 percent, and if we look just at the week ending November 1, unemployment claims hit a 34-month low.

Finally, there is good news for individual State treasuries. Their budget gap of nearly $20 billion at the beginning of the last fiscal year has now declined to a budget gap of less than $3 billion—$20 billion down to $3 billion for the beginning of this fiscal year. States are just beginning to see revenue surprises in their estimates.

Whether it is consumers or whether it is businesses, all are optimistic about America's economic direction. Inflation is low, interest rates are low, and American taxpayers have more of their hard-earned money to spend and to save as they choose. And they have more and more opportunities to secure the jobs they need.

This body will continue to champion fiscal policies that strengthen the economy and create jobs. We will also continue to pursue fair and free trade policies that increase consumer buying power, that stoke that economic furnace. I can list all sorts of examples, such as the free trade agreements we passed this year with Chile and Singapore. These and other policies, indeed, are maximizing freedom, are expanding the opportunity for every American—indeed, are moving America forward in a way that serves the cause of liberty.

That leads me to national security. Our mission to expand freedom and opportunity applies not just to our economy but to national security as well. We know that freedom cannot find its fullest expression under a threat of terror. Likewise, terror cannot spread where freedom reigns. This is why this year America took the extraordinary action of toppling Saddam Hussein and his terrorist-sponsoring regime.

In 3 short weeks, men and women of the United States military, with the support of 49 nations, swept into Baghdad, ending three decades of ruthless rule and terror. In the months since, our soldiers have worked tirelessly. Our thoughts and prayers are with them as we enter this new holiday season. They have worked and continue to work under dangerous conditions.

They are working with that focus of helping the Iraqi people build a democracy. Our soldiers have rebuilt schools. They have rebuilt hospitals. They have rebuilt electrical grids, pipelines, and roads. They are training the Iraqi police forces to patrol the streets and to hunt down terrorists. Every day our troops are helping the people of Iraq and Afghanistan move forward, becoming free and open societies. To support their efforts, this body acted. We passed the President's $87 billion war supplemental this year. We did so because we recognized that investing in the future of Iraq and Afghanistan is an investment in our security.

September 11 taught us a really cruel lesson. We learned that we cannot wait in this country while storms gather. As the President said, the Middle East region will either become a place of progress and peace or it will remain a source of violence and terror. I repeat that quotation: The Middle East region will either become a place of progress and peace or it will remain a source of violence and terror.

This year, we in the Senate took bold action to support the war on terror because we are determined that progress and peace take root. The Middle East is not the only region where we are working to bring stability. In this session, in this body, we passed the Burmese Freedom Act and the Clean Diamond Act to promote peace and freedom. We also took the historic action of dedicating $15 billion to drive back, to fight, and to eventually eradicate the HIV/AIDS virus. That little virus that I have talked a lot about on this floor did not exist, as far as we knew, until the early 1980s, which is not that long ago. Since that period in time, that little virus has killed a million people, killed 5 million people, killed 10 million people, killed 15 million people, killed 23 million people over the last 20 years.

As a physician, as one who participates in medical mission trips to Africa—indeed, around the world, but predominantly to Africa—on a regular basis, I am especially gratified by this body demonstrating its compassion on this issue. Millions of lives have been cut short by this scourge, and we responded. It is a new problem around

the world and it is a problem that we, following the leadership of the President of the United States, are addressing with the full might and power and boldness of this body.

Countries have lost whole midsections and swaths of their population. In my trip to parts of Africa, we took a Senate delegation into August and September of this year and we saw this whole midsection of a population where, yes, there are young people running around but they have lost their parents and there are older people who are typically grandparents but the whole midsection of a population has literally been wiped out. I have said it many times, and I will continue to say it because we need to make Americans aware, that to my mind HIV/AIDS is the greatest moral, humanitarian, and public health challenge of the last 100 years.

The good news is that this body has responded. By passing the global HIV/AIDS bill, we are helping to prevent 7 million new infections, provide antiretroviral drugs for 2 million HIV-infected people, care for 10 million HIV-infected people and AIDS orphans, and bring hope to millions of people around the world. Our leadership serves as an example for every government in the world today.

It is not just in Africa. Actually, the fastest growing rates are not in Africa. We see it in elements of the Caribbean and we see it in Russia. Just a few minutes ago, I had the opportunity to meet with the Premier of China, and we were talking about HIV/AIDS. It is really unprecedented. I cannot help but think that the President of the United States, with the leadership in this body and the House of Representatives, has contributed to that global understanding, that global leadership, which will allow us eventually to reverse the tide of destruction of this virus.

Our work in passing this critical legislation does demonstrate that the United States of America places a high value on life. We have responded. We have a lot more to do in this regard, but we have responded with that boldness. History will judge how we responded, and in this Congress we have responded in that bold fashion. We have taken the necessary actions.

We have also addressed other sorts of life-related issues in this Congress. We have made the right choice to end that morally reprehensible practice of partial-birth abortion. This body and the House and various administrations have talked about outlawing this objectionable—I would say abominable—procedure, but we delivered. This body delivered and no longer, as I stand here, is that practice of partial-birth abortion legal. Eleven months ago, it was legal; it was performed and unnecessary lives were taken. Today, it is against the law. We did it, I should say, with an overwhelming majority in this body. We voted to end this immoral and medically unnecessary procedure and say yes to life.

This Senate can be proud of many strides taken in the 108th Congress to protect those most vulnerable among us. Again, I add that partial-birth abortion really demonstrates that. In addition, there was other legislation, such as Amber Alert. In January, we passed legislation to establish the National Amber Alert. Law enforcement now—and they did not have it at the beginning of this year—has another tool to work with the public. Governments and law enforcement can now work together to be able to find missing children.

Another example: In June of this year, we passed legislation to protect the victims of child abuse. We also voted to extend welfare reform to help lift families out of poverty. There was Medicare reform, jobs and growth tax cuts, the Iraqi war supplemental, the global HIV/AIDS bill.

In January, we set our sights high, and I would argue that we exceeded expectation. We are moving America forward, and we will continue to do so in the coming months because there is a lot more to do.

I go through this sort of partial discussion of what we have accomplished in terms of jobs and growth, health care, the value of life issues, and global HIV/AIDS in part to reflect. It is important for our colleagues because we have been working pretty hard, we have been going pretty much nonstop, especially over the last couple of months, and I do want to encourage our colleagues to look back and say that, yes, we are making progress, but there is much to be done.

I do want to really just project out a little bit about where I think we will be going in the next Congress as we come back in January.

We will build on the success of this year's appropriations process and we will tackle all 13 appropriations bills so that Government can perform its basic function to serve the people. Beyond appropriations, we still must pass a comprehensive energy plan. We have been debating national energy and national energy policy for 3 years. During the last Congress, we spent a total of 7 weeks debating energy on the Senate floor. In this Congress we spent more time debating energy than any other bill. More time than any other bill we debated energy on this floor. Yet despite all this time devoted to debate, there still remains a small contingent, a minority in this body I should add, that continues to obstruct progress. While this small group insists on yet more debate, national gas prices keep rising to even higher levels.

U.S. chemical companies are closing plants. They are laying off workers. They are looking to expand production abroad because of high energy prices. The United States is expected to import approximately $9 billion more in chemicals than it exports this year. American consumers are getting hit with higher electric bills and small businesses are struggling to contain costs, all because of rising energy prices.

So we have to pass an energy plan, and we will pass an energy plan when we return. Not only will the energy plan lower prices, it will save jobs and it will create thousands more. It is estimated the energy package will create half a million jobs. The Alaskan pipeline alone will create at least 400,000. The hundreds of millions of dollars that will be invested in research and development of new technologies will not only benefit the environment but will create new jobs in engineering, math, chemistry, physics, and science. We simply cannot allow the obstruction of a few in the Senate to continue to harm the interests of millions of Americans.

I do use that word ''obstruction,'' and indeed I use it purposely because we saw it used to an alarming degree in this Congress, no more so than, as we demonstrated on this floor to the American people, now several weeks ago, in the consideration of the President's judicial nominees. Here obstruction has become a tool to undermine the democratic process itself. It, too, is a new problem.

For the last 200 years we have never seen the filibuster used to stop and to obstruct and to deny Senators an up-or-down vote on Presidential nominees. A minority of Senators in this body today, this year, unlike in previous Congresses, is denying all 100 of us their constitutional duty—it is spelled out in the Constitution—to give advice and consent.

We took that opportunity, now, several weeks ago, to make it plain to the American people. Yes, we worked around the clock. We had the 40-hour debate. We held it in October on three of the President's judicial nominees, and after 40 hours of debate to fully consider the eminently qualified candidates for the bench, the minority refused to allow us that very simple request—not approval of them all but simply an up-or-down vote.

Yes, this is obstruction. It really can't be described as anything but obstruction, and I would argue plain partisan obstruction. It is something we will continue to fight and we will not give up until we can break that partisan obstruction which is new to this wonderful institution, and it is something we must take back to what has been both the tradition and the culture of the last 200 years.

When we return in January we will continue to press for the fair consideration of the President's judicial nominees. Again, the fair consideration—advice and consent, a simple vote. People can vote against or they can vote for, but just allow us to vote. As we pointed out several weeks ago, the democratic process itself, as enshrined in the United States Constitution, is at stake.

We will also continue, as we look forward, to press for policies that expand and strengthen our economy. This session we did pass, as I outlined, smart,

progrowth fiscal policy, and we are already beginning to see those results. But there is still a lot more to do. We have to address, and we will address in the next year, the frivolous lawsuits that we all know are clogging our State courts. They are unnecessarily wasting our taxpayer dollars, and that gets reflected in inhibiting, almost straitjacketing businesses, especially small businesses. It straightjackets that entrepreneurial spirit that we know bubbles underneath here in the United States of America. It is that entrepreneurial spirit; it is that innovation and creativity that creates jobs. Yet we have a tort system, mainly reflected in these frivolous lawsuits, which keeps it contained, keeps it trapped.

In my own area of medicine, for the first time in a long period of time this past summer we addressed the medical liability issues with a freestanding bill. It is going to come back and it is going to keep coming back until we solve this unnecessary problem which affects access to care, to quality care, as we see trauma centers closing, as we see obstetricians no longer delivering babies. Again, it is a problem that can be reversed, and in this body we have a responsibility to reverse it. And we will. America is a country that values its citizens and we will return fairness to the litigation process.

We will also work to return fairness to the tax system. We will press for reforms to simplify the Tax Code. We will work to extend the tax credits passed in the Jobs and Growth Act. The work opportunity tax credit, for example, offers tax incentives to hire unemployed workers and welfare recipients. Not only is this smart, progrowth fiscal policy, it also is compassionate social action.

Fairness and compassion also demand that we permanently repeal the Federal death tax, the estate tax. Americans who work hard their whole lives, who save and who invest, who start those small businesses which become that engine of economic growth, those individuals who contribute to America's economic vibrancy, simply should not be punished for their success. That is what the death tax does. No son, no daughter should have to sell that family home to pay the death tax collector. It makes no sense, it is unfair, and it discourages productive economic activity. We will address it and ultimately we will win.

Compassion also demands that we turn our attention to fine-tuning the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Since it was enacted 7 years ago, welfare reform has helped to lift millions and millions of families out of poverty. There are over 3.5 million fewer people living in poverty now than in 1995, a year before welfare reform was passed. Welfare caseloads have declined to one-half. When we return next year, we will look for ways to build on this success so that more families can have a fair chance at the American dream.

We will also address that important issue, and an issue, again, I talk a lot about, and that is the problem of the uninsured. The increasing number—again, you will see this body is beginning to address those areas, those problems where the problem is getting worse over time, and the uninsured is just that area. It is an increasing number of uninsured, people without health insurance. Clearly, this problem represents one of the most daunting policy challenges facing our Nation.

As a physician, I saw firsthand how the lack of insurance, the lack of coverage, puts forth the significant barriers to quality health care, including such things as basic as preventive services. The lack of affordable health coverage is also one of the key factors contributing to health care disparities among minorities among other medically underserved populations. I asked my colleague the Senator from New Hampshire, Mr. JUDD GREGG, to lead the Senate Republican task force on this pressing issue, the uninsured. He will report back with a series of recommendations for modification, for strengthening, for reform next year.

Next year we will also continue our efforts to improve America's public educational system. We are committed to improving Head Start to make sure that Head Start children enter school with the same tools and the same skills as their economically advantaged peers. We are also committed to expanding access to college education for every American student who seeks it, and for special education students we will work to pass comprehensive legislation that protects their educational rights as well.

Education, as we all know, is the heart and soul of America's success. Our abundance, civic life, and democracy demand and depend directly on a thriving and educated citizenry.

Education, the uninsured, tax policy, welfare reform, litigation reform, judicial nominees, energy, and appropriations are just some of the challenging issues we will be addressing next year. I am confident that next year, just as this year, we will be able to meet ambitious goals.

In closing, each day that I have the opportunity to walk into this great institution, I am humbled. Indeed, I am inspired. I am humbled mostly by the great men and women who have come before and inspired by their example. In his 1862 address to Congress, President Lincoln told the assembled legislators that ''America is the world's last best hope.'' Those words have never ever been truer than they are today. I am confident that we will face the challenges ahead with honor and with courage for the simple reason that we are Americans.

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

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

INTELLECTUAL PROPERTY RIGHTS

Mr. FRIST. Mr. President, I had the opportunity to take my wife Karyn to the Kennedy Center Honors, which is an annual tradition here. It is really a remarkable evening—a 2-day event—where America celebrates cultural icons. Most of them have been recognized before. But in that special gathering and in that beautiful building, the Kennedy Center, it takes on a really special meaning I think for us in this body, in the U.S. Congress, for those of us here in Washington, but indeed for people around the world as they see it replayed just after, I think, December 26.

While I was there, I couldn't help but to reflect as I watched one of country music's greats, Loretta Lynn, receive her honor. An issue that affects the State of Tennessee but indeed which affects people throughout the United States of America deals with intellectual property rights.

The State of Tennessee is known the world over for its vibrant musical heritage. It is the home of the Grand Ole Opry and the Country Music Hall of Fame. Indeed, Tennessee has produced some of the greatest popular pioneers of all time. Indeed, Tennessee has produced Elvis Presley, Johnny Cash, Loretta Lynn, Dolly Parton, and the list goes on. Those who grew up in Nashville had that opportunity to go by on a regular basis and experience the music at the wonderful Ryman Auditorium, where the Grand Ole Opry was housed for so many years.

In the next few weeks, we will have the pleasure of hearing renditions of many of these artists with their Christmas carols played over the airwaves all across this country and even all across this globe, in shopping malls just about everywhere the holidays are celebrated.

The music community that creates these opportunities and this joy is being threatened. In these closing minutes, I bring that to the attention of my colleagues. It is being threatened by those who love it so much, who appreciate it so much; that is, the millions of people who are downloading billions of illegal music files.

I have had the privilege of meeting diverse groups of leaders from the music community on several occasions, but the focus has been to discuss the effects of piracy on the music industry. It is huge. It is far reaching. It is the artist, it is the record companies, it is the performing rights organizations, it is the publishers. The bottom line is clear: Piracy is greatly impacting the music community. The situation is, indeed, growing worse. Online music piracy is out of control.

Currently, every month, 2.6 billion music files are downloaded illegally

using peer-to-peer networks. It is not unusual for albums to show up on the Internet before they make it to the record stores. The music industry is losing $4 billion a year to piracy, and that dollar figure is growing every day. Most alarming, there is an entire generation of young Americans who believe that downloading online music is acceptable, it is the norm, it is legal, like being your own personal DJ without ever having to buy a CD.

Piracy affects more than just the music industry. It affects that larger element of intellectual property. It includes the movie industry, it includes the software industry. Indeed, the numbers are staggering. According to a report released by the International Intellectual Property Alliance, U.S. copyright industries—and that includes music, movies, books, and software—contributed $535 billion to the U.S. economy in 2001. They collectively employ over 4.7 million workers. They generate almost $900 billion in foreign sales, making intellectual property one of our largest exports.

Other countries often do not respect our copyright laws. They allow mass copying of music and other works. For example, it is estimated that an astounding 92 percent of business software used in China is pirated. In my travels to Asia several months ago, I directly stressed the importance of protecting our copyright laws to the leaders of China and Taiwan and Korea, the countries I visited. Copyright pirating is costing our economy billions. As leaders, we must educate the public that illegally downloading music or copyrighted material is stealing, straight and simple. Most people would never steal a CD from Wal-Mart, but they do not think twice before burning a CD from illegally downloaded music. People forget that an artist's song is just like a baker's loaf of bread; it is their creation; it is their livelihood.

While the future of the music industry lies with the merging technology, the industry simply cannot survive if Internet piracy steals its value any more than a shop owner can survive having their inventory stolen from under him or her every week or a restaurant owner can afford in some way to serve meals for free.

Eventually, unabated piracy will dry up income. It drives away the creative spirit. It drives away artists. It destroys the enterprise of making recorded music. Fewer artists, less music. It is that simple. Less music on our airwaves, on the Internet, in the public square, any place you can think of where recorded music is played and enjoyed, including on your own Walkman when you jog or run. Piracy ends up hurting us all, music lovers and music creators alike.

I ask my colleagues to watch this issue closely. We can help educate the public about both the illegality of piracy and its effect on our economy and our creative culture. It is our responsibility to do so. And we can encourage consumers to download music from legitimate online fee services. There are several sites that are up and running, and I encourage the industry to continue to work hard to improve their online products to meet consumer demand. There is no better time to reflect on the impact of American recorded music than during these holidays. When we hear Bing Crosby's ''White Christmas'' or Duke Ellington's ''Jingle Bells'' or Burl Ives's ''Rudolph the Red Nosed Reindeer,'' we are hearing not just another American Christmas classic but a part of America's creative legacy, the recorded music industry, one of our greatest exports to the world.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. FRIST. As in executive session, I ask unanimous consent that the nomination of Rhonda Keenum of Mississippi to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, received on Tuesday, December 9, 2003, be jointly referred to the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs.

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

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENTS NOS. 108–113 and 108–114

Mr. FRIST. As in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaties transmitted to the Senate on December 9, 2003, at 3:18 p.m., by the President of the United States: Additional Protocol to Investment Treaty with Romania (Treaty Document No. 108–113), and Taxation Convention with Japan (Treaty Document No. 108–14).

I further ask that the treaties be considered as having been read the first time, that they be referred with accompanying papers to the Committee on Foreign Relations in order to be printed, and that the President's messages be printed in the RECORD.

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

The messages of the President are as follows:

ADDITIONAL PROTOCOL TO INVESTMENT TREATY WITH ROMANIA—TREATY DOC. 108–13

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Additional Protocol between the Government of the United States of America and the Government of Romania Concerning the Reciprocal Encouragement and Protection of Investment of May 28, 1992, signed at Brussels on September 22, 2003. I transmit also, for the information of the Senate, the report of the Department of State with respect to this Additional Protocol.

My Administration expects to forward to the Senate shortly analogous Additional Protocols for Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Poland, and the Slovak Republic. Each of these Additional Protocols is the result of an understanding the United States reached with the European Commission and six countries that will join the European Union (EU) on May 1, 2004 (the Czech Republic, Estonia, Latvia, Lithuania, Poland, and the Slovak Republic), as well as with Bulgaria and Romania, which are expected to join the EU in 2007.

The understanding is designed to preserve U.S. bilateral investment treaties (BITs) with each of these countries after their accession to the EU by establishing a framework acceptable to the European Commission for avoiding or remedying present and possible future incompatibilities between their BIT obligations and their future obligations of EU membership. It expresses the U.S. intent to amend the U.S. BITs, including the BIT with Romania, in order to eliminate incompatibilities between certain BIT obligations and EU law. It also establishes a framework for addressing any future incompatibilities that may arise as European Union authority in the area of investment expands in the future, and endorses the principle of protecting existing U.S. investments from any future EU measures that may restrict foreign investment in the EU.

The United States has long championed the benefits of an open investment climate, both at home and abroad. It is the policy of the United States to welcome market-driven foreign investment and to permit capital to flow freely to seek its highest return. This Additional Protocol preserves the U.S. BIT with Romania, with which the United States has an expanding relationship, and the protections it affords U.S. investors even after Romania joins the EU. Without it, the European Commission would likely require Romania to terminate its U.S. BIT upon accession because of existing and possible future incompatibilities between our current BIT and EU law.

I recommend that the Senate consider this Additional Protocol as soon as possible, and give its advice and consent to ratification at an early date.

GEORGE W. BUSH.

THE WHITE HOUSE, *December 9, 2003.*

TAXATION CONVENTION WITH JAPAN—TREATY DOC. 108–14

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention between the Government of the United States of America and the Government of Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect

to Taxes on Income, signed at Washington on November 6, 2003, together with a Protocol and an exchange of notes (the ''Convention''). I also transmit, for the information of the Senate, the report of the Department of State concerning the Convention.

This Convention would replace the Convention between the United States of America and Japan for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at Tokyo on March 8, 1971.

This Convention, which is similar to tax treaties between the United States and other developed nations, provides rules specifying the circumstances under which income that arises in one of the countries and is derived by residents of the other country may be taxed by the country in which income arises, providing for maximum source-country withholding tax rates that may be applied to various types of income and providing for protection from double taxation of income. The proposed Convention also provides rules designed to ensure that the benefits of the Convention are not available to persons that are engaged in treaty shopping. Also included in the proposed Convention are rules necessary for administering the Convention.

I recommend that the Senate give early and favorable consideration to this Convention, and that the Senate give its advice and consent to the ratification of the Convention.

GEORGE W. BUSH.

THE WHITE HOUSE, *December 9, 2003.*

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, in consultation with the Democratic Leader and pursuant to Public Law 108–79, appoint the following individual: Guastavus Adolphus Puryear, IV, of Tennessee, to the National Prison Rape Reduction Commission for a term of 2 years.

The Chair, on behalf of the Democratic Leader, after consultation with the Majority Leader and pursuant to Public Law 108–79, appoints the following individuals to the National Prison Rape Reduction Commission: James Evan Aiken, of North Carolina, and Cindy Struckman-Johnson of South Dakota.

The Chair, on behalf of the Democratic Leader, pursuant to Public Law 108–132, appoints the following individuals to the Commission on Review of Overseas Military Facility Structure of the United States: Al Cornella, of South Dakota, and James A Thomson, of California.

AUTHORIZING COMMITTEES TO REPORT LEGISLATIVE AND EXECUTIVE MATTERS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the Senate's adjournment, committees be authorized to report legislative and executive matters on Friday, January 9, 2004, from 10 a.m. to 12 noon.

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

AUTHORIZING APPOINTMENTS BY THE PRESIDENT OF THE SENATE, THE PRESIDENT OF THE SENATE PRO TEMPORE, AND THE MAJORITY AND MINORITY LEADERS

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate.

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

AUTHORIZING THE MAJORITY LEADER TO SIGN DULY ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader be authorized to sign duly enrolled bills or joint resolutions.

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

EXTENDING THE SPECIAL POSTAGE STAMP FOR BREAST CANCER RESEARCH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2000, introduced earlier today by Senators FEINSTEIN and HUTCHISON.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2000) to extend the special postage stamp for breast cancer research for 2 years.

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

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

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

The bill (S. 2000) was read the third time and passed, as follows:

S. 2000

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

SECTION 1. 2-YEAR EXTENSION OF POSTAGE STAMP FOR BREAST CANCER RESEARCH.

Section 414(h) of title 39, United States Code, is amended by striking ''2003'' and inserting ''2005''.

SOCIAL SECURITY PROTECTION ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 349, H.R. 743.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 743) to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following;

[Strike the part shown in black brackets and insert the part shown in italic.]

H.R. 743

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

[SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the ''Social Security Protection Act of 2003''.

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

[TITLE I—PROTECTION OF BENEFICIARIES

[Subtitle A—Representative Payees

[SEC. 101. AUTHORITY TO REISSUE BENEFITS MISUSED BY ORGANIZATIONAL REPRESENTATIVE PAYEES.

[(a) TITLE II AMENDMENTS.—

[(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following new sentences: ''In any case in which a representative payee that—

[''(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

[''(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B).''.

[(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following new paragraph:

[''(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph.''.

[(b) TITLE VIII AMENDMENTS.—

[(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) (as amended by section 209(b)(1) of this Act) is amended further by inserting after the first sentence the following new sentences: ''In any case in which a representative payee that—

[''(A) is not an individual; or

[''(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (l)(2).''.

[(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following new subsection:

[''(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection.''.

[(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking ''for his or her benefit'' and inserting ''for his or her use and benefit''.

[(c) TITLE XVI AMENDMENTS.—

[(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following new sentences: ''In any case in which a representative payee that—

[''(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

[''(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to the representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of the benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii).''.

[(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

[(A) in paragraph (12), by striking ''and'' at the end;

[(B) in paragraph (13), by striking the period and inserting ''; and''; and

[(C) by inserting after paragraph (13) the following new paragraph:

[''(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused.''.

[(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following new clause:

[''(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause.''.

[(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner makes the determination of misuse on or after January 1, 1995.

[SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

[(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

[(1) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

[(A) in paragraph (2)(C)(v), by striking ''a community-based nonprofit social service agency licensed or bonded by the State'' in subclause (I) and inserting ''a certified community-based nonprofit social service agency (as defined in paragraph (9))'';

[(B) in paragraph (3)(F), by striking ''community-based nonprofit social service agencies'' and inserting ''certified community-based nonprofit social service agencies (as defined in paragraph (9))'';

[(C) in paragraph (4)(B), by striking ''any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative

payee'' and inserting ''any certified community-based nonprofit social service agency (as defined in paragraph (9))''; and

[(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following new paragraph:

[''(9) For purposes of this subsection, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in such State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on such agency which may have been performed since the previous certification.''.

[(2) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

[(A) in subparagraph (B)(vii), by striking ''a community-based nonprofit social service agency licensed or bonded by the State'' in subclause (I) and inserting ''a certified community-based nonprofit social service agency (as defined in subparagraph (I))'';

[(B) in subparagraph (D)(ii)—

[(i) by striking ''or any community-based'' and all that follows through ''in accordance'' in subclause (II) and inserting ''or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance'';

[(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margination accordingly); and

[(iii) by striking ''subclause (II)(bb)'' and inserting ''subclause (II)''; and

[(C) by adding at the end the following new subparagraph:

[''(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.''.

[(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

[(b) PERIODIC ONSITE REVIEW.—

[(1) TITLE II AMENDMENT.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

[''(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

[''(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

[''(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

[''(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

[''(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

[''(i) the number of such reviews;

[''(ii) the results of such reviews;

[''(iii) the number of cases in which the representative payee was changed and why;

[''(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

[''(v) the number of cases discovered in which there was a misuse of funds;

[''(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

[''(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

[''(viii) such other information as the Commissioner deems appropriate.''.

[(2) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following new subsection:

[''(k) PERIODIC ONSITE REVIEW.—(1) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

[''(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

[''(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

[''(2) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

[''(A) the number of such reviews;

[''(B) the results of such reviews;

[''(C) the number of cases in which the representative payee was changed and why;

[''(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

[''(E) the number of cases discovered in which there was a misuse of funds;

[''(F) how any such cases of misuse of funds were dealt with by the Commissioner;

[''(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

[''(H) such other information as the Commissioner deems appropriate.''.

[(3) TITLE XVI AMENDMENT.—Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

[''(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

[''(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

[''(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

[''(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

[''(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

[''(I) the number of the reviews;

[''(II) the results of such reviews;

[''(III) the number of cases in which the representative payee was changed and why;

[''(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

[''(V) the number of cases discovered in which there was a misuse of funds;

[''(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

[''(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

[''(VIII) such other information as the Commissioner deems appropriate.''.

[SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

[(a) TITLE II AMENDMENTS.—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

[(1) in subparagraph (B)(i)—

[(A) by striking ''and'' at the end of subclause (III);

[(B) by redesignating subclause (IV) as subclause (VI); and

[(C) by inserting after subclause (III) the following new subclauses:

[''(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

[''(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and'';

[(2) in subparagraph (B), by adding at the end the following new clause:

[''(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

[''(I) such person is described in section 202(x)(1)(A)(iv),

[''(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

[''(III) the location or apprehension of such person is within the officer's official duties.'';

[(3) in subparagraph (C)(i)(II), by striking ''subparagraph (B)(i)(IV),,'' and inserting ''subparagraph (B)(i)(VI)'' and striking ''section 1631(a)(2)(B)(ii)(IV)'' and inserting ''section 1631(a)(2)(B)(ii)(VI)''; and

[(4) in subparagraph (C)(i)—

[(A) by striking ''or'' at the end of subclause (II);

[(B) by striking the period at the end of subclause (III) and inserting a comma; and

[(C) by adding at the end the following new subclauses:

[''(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

[''(V) such person is person described in section 202(x)(1)(A)(iv).''.

[(b) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1007) is amended—

[(1) in subsection (b)(2)—

[(A) by striking ''and'' at the end of subparagraph (C);

[(B) by redesignating subparagraph (D) as subparagraph (F); and

[(C) by inserting after subparagraph (C) the following new subparagraphs:

[''(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

[''(E) obtain information concerning whether such person is a person described in section 804(a)(2); and'';

[(2) in subsection (b), by adding at the end the following new paragraph:

[''(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

[''(A) such person is described in section 804(a)(2),

[''(B) such person has information that is necessary for the officer to conduct the officer's official duties, and

[''(C) the location or apprehension of such person is within the officer's official duties.''; and

[(3) in subsection (d)(1)—

[(A) by striking ''or'' at the end of subparagraph (B);

[(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

[(C) by adding at the end the following new subparagraphs:

[''(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

[''(E) such person is a person described in section 804(a)(2).''.

[(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

[(1) in clause (ii)—

[(A) by striking ''and'' at the end of subclause (III);

[(B) by redesignating subclause (IV) as subclause (VI); and

[(C) by inserting after subclause (III) the following new subclauses:

[''(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

[''(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and'';

[(2) in clause (iii)(II)—

[(A) by striking ''clause (ii)(IV)'' and inserting ''clause (ii)(VI)''; and

[(B) by striking ''section 205(j)(2)(B)(i)(IV)'' and inserting ''section 205(j)(2)(B)(i)(VI)'';

[(3) in clause (iii)—

[(A) by striking ''or'' at the end of subclause (II);

[(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

[(C) by adding at the end the following new subclauses:

[''(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

[''(V) such person is a person described in section 1611(e)(4)(A).''; and

[(4) by adding at the end the following new clause:

[''(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

[''(I) such person is described in section 1611(e)(4)(A),

[''(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

[''(III) the location or apprehension of such person is within the officer's official duties.''.

[(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

[(e) REPORT TO THE CONGRESS.—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

[SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

[(a) TITLE II AMENDMENTS.—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

[(1) in the first sentence, by striking ''A'' and inserting ''Except as provided in the next sentence, a''; and

[(2) in the second sentence, by striking ''The Secretary'' and inserting the following: ''A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner''.

[(b) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

[(1) in the first sentence, by striking ''A'' and inserting ''Except as provided in the next sentence, a''; and

[(2) in the second sentence, by striking ''The Commissioner'' and inserting the following: ''A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

[SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

[(a) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

[(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

[(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking ''paragraph (9)'' and inserting ''paragraph (10)'';

[(3) in paragraph (6)(A)(ii), by striking ''paragraph (9)'' and inserting ''paragraph (10)''; and

[(4) by inserting after paragraph (6) the following new paragraph:

[''(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

[''(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

[(b) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following new subsection:

[''(l) LIABILITY FOR MISUSED AMOUNTS.—

[''(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

[''(2) LIMITATION.—The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

[(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

[(1) in subparagraph (G)(i)(II), by striking ''section 205(j)(9)'' and inserting ''section 205(j)(10)''; and

[(2) by striking subparagraph (H) and inserting the following:

[''(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

[''(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

[(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

[SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

[(a) TITLE II AMENDMENTS.—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

[(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

[(2) by inserting after subparagraph (D) the following new subparagraph:

[''(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.''.

[(b) TITLE VIII AMENDMENTS.—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

[(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

[(2) by inserting after paragraph (2) the following new paragraph:

[''(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments.''.

[(c) TITLE XVI AMENDMENT.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following new clause:

[''(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.''.

[(d) EFFECTIVE DATE.—The amendment made by this section shall take effect 180 days after the date of the enactment of this Act.

[Subtitle B—Enforcement

[SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

[(a) IN GENERAL.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8) is amended by adding at the end the following new paragraph:

[''(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted.''.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

[TITLE II—PROGRAM PROTECTIONS

[SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO KNOWING WITHHOLDING OF MATERIAL FACTS.

[(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

[(1) CIVIL PENALTIES.—Section 1129(a)(1) of the Social Security Act (42 U.S.C. 1320a–8(a)(1)) is amended—

[(A) by striking ''who'' in the first sentence and inserting ''who—'';

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

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

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

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

shall be subject to,'';

[(C) by inserting ''or each receipt of such benefits or payments while withholding disclosure of such fact'' after ''each such statement or representation'' in the first sentence;

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

[(E) by inserting ''or such a withholding of disclosure'' after ''such a statement or representation'' in the second sentence.

[(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—Section 1129A(a) of such Act (42 U.S.C. 1320a–8a(a)) is amended—

[(A) by striking ''who'' the first place it appears and inserting ''who—''; and

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

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

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

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

shall be subject to,''.

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

[(c) CONFORMING AMENDMENTS.—

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

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

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

[(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner implements the centralized computer file described in section 202.

[SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

[Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

[SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

[(a) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

[(1) in the heading, by striking ''Prisoners'' and all that follows and inserting the following: ''Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees'';

[(2) in paragraph (1)(A)(ii)(IV), by striking ''or'' at the end;

[(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

[(4) by inserting after paragraph (1)(A)(iii) the following:

[''(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State, or

[''(v) is violating a condition of probation or parole imposed under Federal or State law.

In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv) or (v), the Commissioner may, for good cause shown, pay such withheld benefits to the individual.''; and

[(5) in paragraph (3), by adding at the end the following new subparagraph:

[''(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

[''(i) the beneficiary—

[''(I) is described in clause (iv) or (v) of paragraph (1)(A); and

[''(II) has information that is necessary for the officer to conduct the officer's official duties; and

[''(ii) the location or apprehension of the beneficiary is within the officer's official duties.''.

[(b) REGULATIONS.—Not later than the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act, the Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits, pursuant to the last sentence of section 202(x)(1)(A) of the Social Security Act (as amended by subsection (a)).

[(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act.

[SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

[(a) IN GENERAL.—Section 1140 of the Social Security Act (42 U.S.C. 1320b–10) is amended—

[(1) in subsection (a), by adding at the end the following new paragraph:

[''(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

[''(i) explains that the product or service is available free of charge from the Social Security Administration, and

[''(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

[''(B) Subparagraph (A) shall not apply to any offer—

[''(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

[''(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI.''; and

[(2) in the heading, by striking ''PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE'' and inserting ''PROHIBITIONS RELATING TO REFERENCES''.

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

[SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

[Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: ''Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.''.

[SEC. 206. PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

[Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following new section:

[''ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

[''SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than $5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than $3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the

Social Security Administration, or to a member of the family of such an officer or employee or contractor.''.

[SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

[(a) IN GENERAL.—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b–10(a)(1)) is amended—

[(1) in subparagraph (A), by inserting '' 'Centers for Medicare & Medicaid Services','' after '' 'Health Care Financing Administration','', by striking ''or 'Medicaid', '' and inserting '' 'Medicaid', 'Death Benefits Update', 'Federal Benefit Information', 'Funeral Expenses', or 'Final Supplemental Plan','' and by inserting '' 'CMS','' after '' 'HCFA','';

[(2) in subparagraph (B), by inserting ''Centers for Medicare & Medicaid Services,'' after ''Health Care Financing Administration,'' each place it appears; and

[(3) in the matter following subparagraph (B), by striking ''the Health Care Financing Administration,'' each place it appears and inserting ''the Centers for Medicare & Medicaid Services,''.

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

[SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

[(a) IN GENERAL.—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following new paragraph:

[''(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

[''(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

[''(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

[''(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment.''.

[(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

[SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

[(a) AMENDMENTS TO TITLE II.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

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

[(2) by inserting after subsection (a) the following new subsection:

[''(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

[''(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

[''(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.''.

[(b) AMENDMENTS TO TITLE VIII.—Section 807(i) of such Act (42 U.S.C. 1007(i)) is amended—

[(1) by striking ''(i) RESTITUTION.—In any case where'' and inserting the following:

[''(i) RESTITUTION.—

[''(1) IN GENERAL.—In any case where''; and

[(2) by adding at the end the following new paragraph:

[''(2) COURT ORDER FOR RESTITUTION.—

[''(A) IN GENERAL.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

[''(B) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this paragraph. In so applying such sections, the Social Security Administration shall be considered the victim.

[''(C) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial restitution, under this paragraph, the court shall state on the record the reasons therefor.''.

[(c) AMENDMENTS TO TITLE XVI.—Section 1632 of such Act (42 U.S.C. 1383a) is amended—

[(1) by redesignating subsection (b) as subsection (c); and

[(2) by inserting after subsection (a) the following new subsection:

[''(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Social Security Administration.

[''(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Social Security Administration shall be considered the victim.

[''(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.''.

[(d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION PAYMENTS.—Section 704(b) of such Act (42 U.S.C. 904(b)) is amended by adding at the end the following new paragraph:

[''(3)(A) Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out titles II, VIII, and XVI.

[''(B) Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts.''.

[(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of the enactment of this Act.

[TITLE III—ATTORNEY FEE PAYMENT SYSTEM IMPROVEMENTS

[SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

[(a) IN GENERAL.—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

[(1) by inserting '', except that the maximum amount of the assessment may not exceed the greater of $75 or the adjusted amount as provided pursuant to the following two sentences'' after ''subparagraph (B)''; and

[(2) by adding at the end the following new sentence: ''In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.''.

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

[SEC. 302. EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

[(a) IN GENERAL.—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

[(1) in subparagraph (A), in the matter preceding clause (i)—

[(A) by striking ''section 206(a)'' and inserting ''section 206'';

[(B) by striking ''(other than paragraph (4) thereof)'' and inserting ''(other than subsections (a)(4) and (d) thereof)''; and

[(C) by striking ''paragraph (2) thereof'' and inserting ''such section'';

[(2) in subparagraph (A)(i), by striking ''in subparagraphs (A)(ii)(I) and (C)(i),'' and inserting ''in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)'', and by striking ''and'' at the end;

[(3) by striking subparagraph (A)(ii) and inserting the following:

[''(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase 'section 1631(a)(7)(A) or the requirements of due process of law' for the phrase 'subsection (g) or (h) of section 223';

[''(iii) by substituting, in subsection (a)(2)(C)(i), the phrase 'under title II' for the phrase 'under title XVI';

[''(iv) by substituting, in subsection (b)(1)(A), the phrase 'pay the amount of such fee' for the phrase 'certify the amount of

such fee for payment' and by striking, in subsection (b)(1)(A), the phrase 'or certified for payment'; and

[''(v) by substituting, in subsection (b)(1)(B)(ii), the phrase 'deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)' for the phrase 'determined before any applicable reduction under section 1127(a))'.''; and

[(4) by striking subparagraph (B) and inserting the following new subparagraphs:

[''(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

[''(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

[''(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

[''(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

[''(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed $75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.

[''(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

[''(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

[''(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

[''(v) Assessments on attorneys collected under this subparagraph shall be deposited in the Treasury in a separate fund created for this purpose.

[''(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.''.

[(b) EFFECTIVE DATE.—

[(1) IN GENERAL.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 1631(d)(2) of the Social Security Act on or after the first day of the first month that begins after 270 days after the date of the enactment of this Act.

[(2) SUNSET.—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date on which the Commissioner of Social Security first implements the amendments made by this section.

[(c) STUDY REGARDING FEE-WITHHOLDING FOR NON-ATTORNEY REPRESENTATIVES.—

[(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study regarding fee-withholding for non-attorney representatives representing claimants before the Social Security Administration.

[(2) MATTERS TO BE STUDIED.—In conducting the study under this subsection, the Comptroller General shall—

[(A) compare the non-attorney representatives who seek fee approval for representing claimants before the Social Security Administration to attorney representatives who seek such fee approval, with regard to—

[(i) their training, qualifications, and competency,

[(ii) the type and quality of services provided, and

[(iii) the extent to which claimants are protected through oversight of such representatives by the Social Security Administration or other organizations, and

[(B) consider the potential results of extending to non-attorney representatives the fee withholding procedures that apply under titles II and XVI of the Social Security Act for the payment of attorney fees, including the effect on claimants and program administration.

[(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report detailing the results of the Comptroller General's study conducted pursuant to this subsection.

[TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

[Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

[SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

[Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

[(1) in the first sentence of subsection (c), by striking ''conducted under subsection (a)'' and inserting ''initiated under subsection (a) on or before December 17, 2004''; and

[(2) in subsection (d)(2), by amending the first sentence to read as follows: ''The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2004.''.

[SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

[Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking ''(42 U.S.C. 401 et seq.),'' and inserting ''(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b–19) as they relate to the program established under title II of such Act,''.

[SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDED FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

[Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

[''(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.''.

[SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

[(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

[(1) IN GENERAL.—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b–20(c)(2)) is amended to read as follows:

[''(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

[''(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

[''(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93–66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93–66);

[''(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

[''(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.''.

[(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

[(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

[(1) DEFINITION OF DISABLED BENEFICIARY.—Section 1150(g)(2) of such Act (42 U.S.C. 1320b–21(g)(2)) is amended to read as follows:

[''(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

[''(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

[''(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93–66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under

section 1616(a) of this Act or under section 212(b) of Public Law 93–66);

''(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

''(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.''.

(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.—Section 1150(b)(2) of such Act (42 U.S.C. 1320b–21(b)(2)) is amended by striking ''secure or regain'' and inserting ''secure, maintain, or regain''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b–19) is amended by adding at the end, after and below subparagraph (E), the following new sentence:

''An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170; 113 Stat. 1921).

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) IN GENERAL.—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking ''and a transcript'' and inserting ''and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 202(n) of the Social Security Act (42 U.S.C. 402(n)(1), (2)) are each amended by striking ''or (1)(E)''.

(b) EFFECTIVE DATE.—The amendment made by this section to section 202(n)(1) of the Social Security Act shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice from the Attorney General after the date of the enactment of this Act. The amendment made by this section to section 202(n)(2) of the Social Security Act shall apply with respect to removals occurring after the date of the enactment of this Act.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) WIDOWS.—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting ''except as provided in paragraph (2),'' before ''she was married'';

(4) by inserting ''(1)'' after ''(c)''; and

(5) by adding at the end the following new paragraph:

''(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

''(A) the individual had been married prior to the individual's marriage to the surviving wife,

''(B) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity,

''(C) during the period of the prior wife's institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

''(D) the prior wife continued to remain institutionalized up to the time of her death, and

''(E) the individual married the surviving wife within 60 days after the prior wife's death.''.

(b) WIDOWERS.—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting ''except as provided in paragraph (2),'' before ''he was married'';

(4) by inserting ''(1)'' after ''(g)''; and

(5) by adding at the end the following new paragraph:

''(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

''(A) the individual had been married prior to the individual's marriage to the surviving husband,

''(B) the prior husband was institutionalized during the individual's marriage to the prior husband due to mental incompetence or similar incapacity,

''(C) during the period of the prior husband's institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

''(D) the prior husband continued to remain institutionalized up to the time of his death, and

''(E) the individual married the surviving husband within 60 days after the prior husband's death.''.

(c) CONFORMING AMENDMENT.—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking ''clause (5) of subsection (c) or clause (5) of subsection (g)'' and inserting ''clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking ''to taxes or contributions for similar purposes under'' and inserting ''exclusively to the laws applicable to''.

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY.

(a) IN GENERAL.—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting ''Kentucky,'' after ''Illinois,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) IN GENERAL.—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

''Compensation, Expenses, and Per Diem

''(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members 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 employed intermittently.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as of January 1, 2003.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

(a) WIFE'S INSURANCE BENEFITS.—Section 202(b)(4)(A) of the Social Security Act (42 U.S.C. 402(b)(4)(A)) is amended by striking ''if, on'' and inserting ''if, during any portion of the last 60 months of such service ending with''.

(b) HUSBAND'S INSURANCE BENEFITS.—Section 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is amended by striking ''if, on'' and inserting ''if, during any portion of the last 60 months of such service ending with''.

[(c) WIDOW'S INSURANCE BENEFITS.—Section 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is amended by striking ''if, on'' and inserting ''if, during any portion of the last 60 months of such service ending with''.

[(d) WIDOWER'S INSURANCE BENEFITS.—Section 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is amended by striking ''if, on'' and inserting ''if, during any portion of the last 60 months of such service ending with''.

[(e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g)(4)(A) of the such Act (42 U.S.C. 402(g)(4)(A)) is amended by striking ''if, on'' and inserting '''if, during any portion of the last 60 months of such service ending with''.

[(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of the enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(b)(4)(A), 202(c)(2)(A), 202(e)(7)(A), or 202(f)(2)(A) of the Social Security Act (in the matter preceding clause (i) thereof)—

[(1) if the last day of such service occurs before the end of the 90-day period following the date of the enactment of this Act, or

[(2) in any case in which the last day of such service occurs after the end of such 90-day period, such individual performed such service during such 90-day period which constituted ''employment'' as defined in section 210 of such Act, and all such service subsequently performed by such individual has constituted such ''employment''.

[Subtitle C—Technical Amendments

[SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

[Section 1143 of the Social Security Act (42 U.S.C. 1320b–13) is amended—

[(1) by striking ''Secretary'' the first place it appears and inserting ''Commissioner of Social Security''; and

[(2) by striking ''Secretary'' each subsequent place it appears and inserting ''Commissioner''.

[SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

[(a) IN GENERAL.—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting '', but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires'' before the semicolon.

[(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

[(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking ''described in subsection (g)(5)'' and inserting ''on a farm operated for profit''.

[(b) AMENDMENT TO SOCIAL SECURITY ACT.—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking ''described in section 210(f)(5)'' and inserting ''on a farm operated for profit''.

[(c) CONFORMING AMENDMENT.—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking ''or is domestic service in a private home of the employer''.

[SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

[(a) CORRECTION OF TERMINOLOGY AND CITATIONS RESPECTING REMOVAL FROM THE UNITED STATES.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by section 412) is amended further—

[(1) by striking ''deportation'' each place it appears and inserting ''removal'';

[(2) by striking ''deported'' each place it appears and inserting ''removed'';

[(3) in paragraph (1) (in the matter preceding subparagraph (A)), by striking ''under section 241(a) (other than under paragraph (1)(C) thereof)'' and inserting ''under section 237(a) (other than paragraph (1)(C) thereof) or 212(a)(6)(A)'';

[(4) in paragraph (2), by striking ''under any of the paragraphs of section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) thereof)'' and inserting ''under any of the paragraphs of section 237(a) of the Immigration and Nationality Act (other than paragraph (1)(C) thereof) or under section 212(a)(6)(A) of such Act'';

[(5) in paragraph (3)—

[(A) by striking ''paragraph (19) of section 241(a)'' and inserting ''subparagraph (D) of section 237(a)(4)''; and

[(B) by striking ''paragraph (19)'' and inserting ''subparagraph (D)''; and

[(6) in the heading, by striking ''Deportation'' and inserting ''Removal''.

[(b) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section 211(a)(15) of such Act (42 U.S.C. 411(a)(15)) is amended by striking ''section 162(m)'' and inserting ''section 162(l)''.

[(c) ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking ''and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis''.

[SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

[(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking ''all of the gross income'' and all that follows and inserting ''the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions;''.

[(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking ''all of the gross income'' and all that follows and inserting ''the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and''.]

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Social Security Protection Act of 2003''.

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

(a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following: ''In any case in which a representative payee that—

''(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

''(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B).''.

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following:

''(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph.''.

(b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 807(i)(1) of the Social Security Act (42 U.S.C. 1007(i)) (as amended by section 209(b)(1) of this Act) is amended further by inserting after the first sentence the following: ''In any case in which a representative payee that—

''(A) is not an individual; or

''(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (l)(2).''.

(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following:

''(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection.''.

(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking ''for his or her benefit'' and inserting ''for his or her use and benefit''.

(c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following: ''In any case in which a representative payee that—

''(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

''(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii).''.

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking ''and'' at the end;

(B) in paragraph (13), by striking the period and inserting ''; and''; and

(C) by inserting after paragraph (13) the following:

''(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused.''.

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following:

''(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner of Social Security makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking ''a community-based nonprofit social service agency licensed or bonded by the State'' in subclause (I) and inserting ''a certified community-based nonprofit social service agency (as defined in paragraph (9))'';

(B) in paragraph (3)(F), by striking ''community-based nonprofit social service agencies'' and inserting ''certified community-based nonprofit social service agencies (as defined in paragraph (9))'';

(C) in paragraph (4)(B), by striking ''any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee'' and inserting ''any certified community-based nonprofit social service agency (as defined in paragraph (9))''; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following:

''(9) For purposes of this subsection, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent

audit on the agency which may have been performed since the previous certification.''.

(2) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking ''a community-based nonprofit social service agency licensed or bonded by the State'' in subclause (I) and inserting ''a certified community-based nonprofit social service agency (as defined in subparagraph (I))'';

(B) in subparagraph (D)(ii)—

(i) by striking ''or any community-based'' and all that follows through ''in accordance'' in subclause (II) and inserting ''or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance'';

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margins accordingly); and

(iii) by striking ''subclause (II)(bb)'' and inserting ''subclause (II)''; and

(C) by adding at the end the following:

''(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.—

(1) TITLE II AMENDMENT.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

''(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

''(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

''(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

''(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

''(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

''(i) the number of such reviews;

''(ii) the results of such reviews;

''(iii) the number of cases in which the representative payee was changed and why;

''(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

''(v) the number of cases discovered in which there was a misuse of funds;

''(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

''(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

''(viii) such other information as the Commissioner deems appropriate.''.

(2) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following:

''(k) PERIODIC ONSITE REVIEW.—

''(1) IN GENERAL.—In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

''(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

''(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

''(2) REPORT.—Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

''(A) the number of such reviews;

''(B) the results of such reviews;

''(C) the number of cases in which the representative payee was changed and why;

''(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

''(E) the number of cases discovered in which there was a misuse of funds;

''(F) how any such cases of misuse of funds were dealt with by the Commissioner;

''(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

''(H) such other information as the Commissioner deems appropriate.''.

(3) TITLE XVI AMENDMENT.—Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

''(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

''(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

''(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

''(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

''(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

''(I) the number of the reviews;

''(II) the results of such reviews;

''(III) the number of cases in which the representative payee was changed and why;

''(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

''(V) the number of cases discovered in which there was a misuse of funds;

''(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

''(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

''(VIII) such other information as the Commissioner deems appropriate.''.

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) TITLE II AMENDMENTS.—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subparagraph (B)(i)—

(A) by striking ''and'' at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

''(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

''(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and'';

(2) in subparagraph (B), by adding at the end the following:

''(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

''(I) such person is described in section 202(x)(1)(A)(iv),

''(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

''(III) the location or apprehension of such person is within the officer's official duties.'';

(3) in subparagraph (C)(i)(II)—

(A) by striking ''subparagraph (B)(i)(IV),,'' and inserting ''subparagraph (B)(i)(VI)''; and

(B) by striking ''section 1631(a)(2)(B)(ii)(IV)'' and inserting ''section 1631(a)(2)(B)(ii)(VI)''; and

(4) in subparagraph (C)(i)—

(A) by striking ''or'' at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following:

''(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

''(V) such person is person described in section 202(x)(1)(A)(iv).''.

(b) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1007) is amended—

(1) in subsection (b)(2)—

(A) by striking ''and'' at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following:

''(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

''(E) obtain information concerning whether such person is a person described in section 804(a)(2); and'';

(2) in subsection (b), by adding at the end the following:

''(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

''(A) such person is described in section 804(a)(2),

''(B) such person has information that is necessary for the officer to conduct the officer's official duties, and

''(C) the location or apprehension of such person is within the officer's official duties.''; and

(3) in subsection (d)(1)—

(A) by striking ''or'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following:

''(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

''(E) such person is a person described in section 804(a)(2).''.

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (ii)—

(A) by striking ''and'' at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

''(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

''(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and'';

(2) in clause (iii)(II)—

(A) by striking ''clause (ii)(IV)'' and inserting ''clause (ii)(VI)''; and

(B) by striking ''section 205(j)(2)(B)(i)(IV)'' and inserting ''section 205(j)(2)(B)(i)(VI)'';

(3) in clause (iii)—

(A) by striking ''or'' at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following:

''(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

''(V) such person is a person described in section 1611(e)(4)(A).''; and

(4) by adding at the end the following:

''(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

''(I) such person is described in section 1611(e)(4)(A),

''(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

''(III) the location or apprehension of such person is within the officer's official duties.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) REPORT TO CONGRESS.—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking ''A'' and inserting ''Except as provided in the next sentence, a''; and

(2) in the second sentence, by striking ''The Secretary'' and inserting the following: ''A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner''.

(b) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking ''A'' and inserting ''Except as provided in the next sentence, a''; and

(2) in the second sentence, by striking ''The Commissioner'' and inserting the following: ''A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking ''paragraph (9)'' and inserting ''paragraph (10)'';

(3) in paragraph (6)(A)(ii), by striking ''paragraph (9)'' and inserting ''paragraph (10)''; and

(4) by inserting after paragraph (6) the following:

''(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

''(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

(b) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following:

''(l) LIABILITY FOR MISUSED AMOUNTS.—

''(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

''(2) LIMITATION.—The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking ''section 205(j)(9)'' and inserting ''section 205(j)(10)''; and

(2) by striking subparagraph (H) and inserting the following:

''(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

''(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

''(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.''.

(b) TITLE VIII AMENDMENTS.—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

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

''(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments.''.

(c) TITLE XVI AMENDMENT.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following:

''(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 107. SURVEY OF USE OF PAYMENTS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1110 of the Social Security Act (42 U.S.C. 1310) is amended by adding at the end the following:

''(c) Notwithstanding subsection (a)(1), of the amount appropriated to carry out that subsection for fiscal year 2004, $17,800,000 of such amount shall be transferred and made available to the Inspector General of the Social Security Administration for purposes of conducting a statistically significant survey to determine how payments made to individuals, organizations, and State or local government agencies that are representative payees for benefits paid under title II or XVI are being managed and used on behalf of the beneficiaries for whom such benefits are paid. Not later than February 1, 2005, the Inspector General of the Social Security Administration shall submit a report on the survey conducted in accordance with this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.''.

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8) is amended by adding at the end the following:

''(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WITHHOLDING OF MATERIAL FACTS.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

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

(A) by striking ''who'' in the first sentence and inserting ''who—'';

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

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

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

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

shall be subject to,'';

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

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

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

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—Section 1129A(a) of such Act (42 U.S.C. 1320a–8a(a)) is amended—

(A) by striking ''who'' the first place it appears and inserting ''who—''; and

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

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

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

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

shall be subject to,''.

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

(c) CONFORMING AMENDMENTS.—

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

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

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

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner of Social Security implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

(a) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by striking ''Prisoners'' and all that follows and inserting the following: ''Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees'';

(2) in paragraph (1)(A)(ii)(IV), by striking ''or'' at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

''(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed, and a Federal, State, or local law enforcement agency has notified the Commissioner that such agency intends to pursue the individual by seeking arrest, extradition, or prosecution, or

''(v) is violating a condition of probation or parole imposed under Federal or State law, and a Federal, State, or local law enforcement agency has notified the Commissioner that such agency intends to seek revocation of the individual's probation or parole.

In the case of an individual from whom such monthly benefits have been withheld pursuant to clause (iv) or (v), the Commissioner of Social Security may, for good cause shown, pay such withheld benefits to the individual.''; and

(5) in paragraph (3), by adding at the end the following:

''(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

''(i) the beneficiary is described in clause (iv) or (v) of paragraph (1)(A);

''(ii) the Commissioner has information with respect to the beneficiary that is necessary for the officer to conduct the officer's official duties; and

''(iii) the location or apprehension of the beneficiary is within the officer's official duties.''.

(b) CONFORMING AMENDMENTS TO TITLE XVI.—Section 1611(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended—

(1) in paragraph (4)—

(A) in subparagraph (A), by striking ''or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State'' and inserting ''or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed, and a Federal, State, or local law enforcement agency has notified the Commissioner of Social Security that the agency intends to pursue the person by seeking arrest, extradition, or prosecution'';

(B) in subparagraph (B), by inserting ''and a Federal, State, or local law enforcement agency has notified the Commissioner of Social Security that the agency intends to seek revocation of the person's probation or parole'' after ''law''; and

(C) by adding at the end the following sentence after and below subparagraph (B):

''In the case of an individual whose eligibility for a month or months has been suspended pursuant to subparagraph (A) or (B), the Commissioner of Social Security may, for good cause shown, restore such individual's eligibility for all such months.''; and

(2) in paragraph (5), by striking subparagraphs (A) and (B) and inserting the following:

''(A) the recipient is described in subparagraph (A) or (B) of paragraph (4);

''(B) the Commissioner has information with respect to the recipient that is necessary for the officer to conduct the officer's official duties; and

''(C) the location or apprehension of the recipient is within the officer's official duties.''.

(c) CONFORMING AMENDMENT.—Section 804(a)(2) of the Social Security Act (42 U.S.C. 1004(a)(2)) is amended by striking ''or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State'' and inserting ''or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed''.

(d) REGULATIONS.—Not later than the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act, the Commissioner of Social Security shall promulgate regulations governing payment by the Commissioner, for good cause shown, of withheld benefits pursuant to the last sentences of sections 202(x)(1)(A) and 1611(e)(4) of the Social Security Act (as amended by subsections (a) and (b), respectively).

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of the enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Section 1140 of the Social Security Act (42 U.S.C. 1320b–10) is amended—

(1) in subsection (a), by adding at the end the following:

''(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

''(i) explains that the product or service is available free of charge from the Social Security Administration, and

''(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

''(B) Subparagraph (A) shall not apply to any offer—

''(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

''(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI.''; and

(2) in the heading, by striking ''PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE'' and inserting ''PROHIBITIONS RELATING TO REFERENCES''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: ''Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe.''.

SEC. 206. CRIMINAL PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following:

''ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

''SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be guilty of a felony and upon conviction thereof shall be fined not more than $5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be guilty of a felony and upon conviction thereof shall be fined not more than $3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.''.

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) IN GENERAL.—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b–10(a)(1)) is amended—

(1) in subparagraph (A), by inserting ''Centers for Medicare & Medicaid Services','' after ''Health Care Financing Administration','', by striking ''or 'Medicaid','' and inserting ''Medicaid', 'Death Benefits Update', 'Federal Benefit Information', 'Funeral Expenses', or 'Final Supplemental Plan','' and by inserting ''CMS','' after ''HCFA','';

(2) in subparagraph (B), by inserting ''Centers for Medicare & Medicaid Services,'' after ''Health Care Financing Administration,'' each place it appears; and

(3) in the matter following subparagraph (B), by striking ''the Health Care Financing Administration,'' each place it appears and inserting ''the Centers for Medicare & Medicaid Services,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) IN GENERAL.—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following:

''(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

''(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

''(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

''(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) AMENDMENTS TO TITLE II.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

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

(2) by inserting after subsection (a) the following:

''(b) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a) that results in the Commissioner of Social Security making a benefit payment (or an increase in such a payment) that should not have been made, shall consider the Commissioner of Social Security a victim of the crime.''.

(b) AMENDMENTS TO TITLE VIII.—Section 807(i) of such Act (42 U.S.C. 1007(i)) is amended—

(1) by striking ''(i) RESTITUTION.—In any case where'' and inserting the following:

''(i) RESTITUTION.—

''(1) IN GENERAL.—In any case where''; and

(2) by adding at the end the following:

''(2) SSA TREATED AS A VICTIM.—Any Federal court, when sentencing a defendant convicted of an offense that results in the Commissioner of Social Security making a benefit payment (or an increase in such a payment) that should not have been made, shall consider the Commissioner of Social Security a victim of the crime.''.

(c) AMENDMENTS TO TITLE XVI.—Section 1632 of such Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

''(b) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a) that results in the Commissioner of Social Security making a benefit payment (or an increase in such a payment) that should not have been made, shall consider the Commissioner of Social Security a victim of the crime.''.

(d) SPECIAL ACCOUNT FOR RECEIPT OF RESTITUTION PAYMENTS.—Section 704(b) of such Act (42 U.S.C. 904(b)) is amended by adding at the end the following:

''(3)(A) Except as provided in subparagraph (B), amounts received by the Social Security Administration pursuant to an order of restitution under section 208(b), 807(i), or 1632(b) shall be credited to a special fund established in the Treasury of the United States for amounts so received or recovered. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out titles II, VIII, and XVI.

''(B) Subparagraph (A) shall not apply with respect to amounts received in connection with misuse by a representative payee (within the meaning of sections 205(j), 807, and 1631(a)(2)) of funds paid as benefits under title II, VIII, or XVI. Such amounts received in connection with misuse of funds paid as benefits under title II shall be transferred to the Managing Trustee of the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and such amounts shall be deposited by the Managing Trustee into such Trust Fund. All other such amounts shall be deposited by the Commissioner into the general fund of the Treasury as miscellaneous receipts.''.

(e) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of the enactment of this Act.

SEC. 210. INFORMATION FOR ADMINISTRATION OF PROVISIONS RELATED TO NONCOVERED EMPLOYMENT.

(a) COLLECTION.—Paragraph (2) of section 6047(d) of the Internal Revenue Code of 1986 (relating to reports by employers, plan administrators, etc.) is amended by adding at the end the following new sentence: ''In the case of any employer deferred compensation plan (as defined in section 3405(e)(5)) of a State, a political subdivision thereof, or any agency or instrumentality of either, the Secretary shall in such forms or regulations require the identification of any designated distribution (as so defined) if paid to any participant or beneficiary of such plan based in whole or in part upon an individual's earnings for service in the employ of any such governmental entity which did not constitute employment (as defined in section 3121(b)).''.

(b) DISCLOSURE.—Section 6103(l)(1) of the Internal Revenue Code of 1986 (relating to disclosure of certain returns and return information to Social Security Administration and Railroad Retirement Board) is amended—

(1) in subparagraph (B), by striking ''and''; and

(2) in subparagraph (C), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(D) any designated distribution described in the second sentence of section 6047(d)(2) to the Social Security Administration for purposes of its administration of the Social Security Act.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after December 31, 2003.

SEC. 211. AUTHORITY FOR CROSS-PROGRAM RECOVERY OF BENEFIT OVERPAYMENTS.

(a) IN GENERAL.—Section 1147 of the Social Security Act (42 U.S.C. 1320b–17) is amended to read as follows:

''CROSS-PROGRAM RECOVERY OF OVERPAYMENTS FROM BENEFITS

''(a) IN GENERAL.—Subject to subsection (b), whenever the Commissioner of Social Security determines that more than the correct amount of any payment has been made to a person under a program described in subsection (e), the Commissioner of Social Security may recover the amount incorrectly paid by decreasing any amount which is payable to such person under any other program specified in that subsection.

''(b) LIMITATION APPLICABLE TO CURRENT BENEFITS.—

''(1) IN GENERAL.—In carrying out subsection (a), the Commissioner of Social Security may not decrease the monthly amount payable to an individual under a program described in subsection (e) that is paid when regularly due—

''(A) in the case of benefits under title II or VIII, by more than 10 percent of the amount of the benefit payable to the person for that month under such title; and

''(B) in the case of benefits under title XVI, by an amount greater than the lesser of—

''(i) the amount of the benefit payable to the person for that month; or

''(ii) an amount equal to 10 percent of the person's income for that month (including such monthly benefit but excluding payments under title II when recovery is also made from title II payments and excluding income excluded pursuant to section 1612(b)).

''(2) EXCEPTION.—Paragraph (1) shall not apply if—

''(A) the person or the spouse of the person was involved in willful misrepresentation or concealment of material information in connection with the amount incorrectly paid; or

''(B) the person so requests.

''(c) NO EFFECT ON ELIGIBILITY OR BENEFIT AMOUNT UNDER TITLE VIII OR XVI.—In any case in which the Commissioner of Social Security takes action in accordance with subsection (a) to recover an amount incorrectly paid to any person, neither that person, nor (with respect to the program described in subsection (e)(3)) any individual whose eligibility for benefits under such program or whose amount of such benefits, is determined by considering any part of that person's income, shall, as a result of such action—

''(1) become eligible for benefits under the program described in paragraph (2) or (3) of subsection (e); or

''(2) if such person or individual is otherwise so eligible, become eligible for increased benefits under such program.

''(d) INAPPLICABILITY OF PROHIBITION AGAINST ASSESSMENT AND LEGAL PROCESS.—Section 207 shall not apply to actions taken under the provisions of this section to decrease amounts payable under titles II and XVI.

''(e) PROGRAMS DESCRIBED.—The programs described in this subsection are the following:

''(1) The old-age, survivors, and disability insurance benefits program under title II.

''(2) The special benefits for certain World War II veterans program under title VIII.

''(3) The supplemental security income benefits program under title XVI (including, for purposes of this section, State supplementary payments paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 204(g) of the Social Security Act (42 U.S.C. 404(g)) is amended to read as follows:

''(g) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.''.

(2) Section 808 of the Social Security Act (42 U.S.C. 1008) is amended—

(A) in subsection (a)(1)—

(i) by striking subparagraph (B);

(ii) in the matter preceding subparagraph (A), by striking ''any payment'' and all that follows through ''under this title'' and inserting ''any payment under this title''; and

(iii) by striking ''; or'' and inserting a period;

(B) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(C) by adding at the end the following:

''(e) CROSS-PROGRAM RECOVERY OF OVERPAYMENTS.—For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.''.

(3) Section 1147A of the Social Security Act (42 U.S.C. 1320b–18) is repealed.

(4) Section 1631(b) of the Social Security Act (42 U.S.C. 1383(b)) is amended—

(A) in paragraph (1)(B)—

(i) by striking ''excluding any other'' and inserting ''excluding payments under title II when recovery is made from title II payments pursuant to section 1147 and excluding''; and

(ii) by striking ''50 percent of''; and

(B) by striking paragraph (6) and inserting the following:

''(6) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.''.

(c) EFFECTIVE DATE.—The amendments and repeal made by this section shall take effect on the date of enactment of this Act, and shall be effective with respect to overpayments under titles II, VIII, and XVI of the Social Security Act that are outstanding on or after such date.

SEC. 212. PROHIBITION ON PAYMENT OF TITLE II BENEFITS TO PERSONS NOT AUTHORIZED TO WORK IN THE UNITED STATES.

(a) FULLY INSURED AND CURRENTLY INSURED INDIVIDUALS.—Section 214 (42 U.S.C. 414) is amended—

(1) in subsection (a), by inserting before the period at the end the following: '', and who satisfies the criterion specified in subsection (c)'';

(2) in subsection (b), by inserting before the period at the end the following: '', and who satisfies the criterion specified in subsection (c)''; and

(3) by adding at the end the following:

''(c) For purposes of subsections (a) and (b), the criterion specified in this subsection is that the individual, if not a United States citizen or national, has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i).''.

(b) DISABILITY BENEFITS.—Section 223(a)(1) of the Social Security Act (42 U.S.C. 423(a)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B), the following:

''(C) if not a United States citizen or national, has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i),''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to benefit applications filed on or after January 1, 2004.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) IN GENERAL.—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting '', except that the maximum amount of the assessment may not exceed the greater of $75 or the adjusted amount as provided pursuant to the following two sentences'' after ''subparagraph (B)''; and

(2) by adding at the end the following: ''In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

SEC. 302. GAO STUDY REGARDING FEE PAYMENT PROCESS FOR CLAIMANT REPRESENTATIVES.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall study and evaluate the appointment and payment of claimant representatives under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.).

(2) CONSULTATION REQUIRED.—The Comptroller General shall consult with beneficiaries under title II of such Act, beneficiaries under title XVI of such Act, claimant representatives of beneficiaries under such titles, and other interested parties, in conducting the study and evaluation required under paragraph (1).

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that includes the following:

(1) A survey of the relevant characteristics of claimant representatives that provides statistically significant results for characteristics which include (but are not limited to)—

(A) qualifications and experience;

(B) the type of employment of such representatives, such as with an advocacy group, State or local government, or insurance or other company;

(C) geographical distribution between urban and rural areas;

(D) the nature of claimants' cases, such as whether the cases are for disability insurance benefits only, supplemental security income benefits only, or concurrent benefits;

(E) the relationship of such representatives to claimants, such as whether the representative is a friend, family member, or client of the claimant; and

(F) the amount of compensation (if any) paid to the representatives and the method of payment of such compensation.

(2) An assessment of the quality and effectiveness of the services provided by claimant representatives, including a comparison of claimant satisfaction or complaints and benefit outcomes, adjusted for differences in representatives' caseload, claimants' diagnostic group, level of decision, and other relevant factors.

(3) An assessment of the costs and benefits of the appointment and payment of representatives with respect to claimant satisfaction or complaints, benefit outcomes, and program administration.

(4) An assessment of the potential results, including the effect on claimants and program administration, of extending to title XVI of the Social Security Act the fee withholding procedures which apply under title II of that Act and of allowing non-attorney representatives to be subject to any fee withholding procedures applicable under title II and XVI of such Act, and whether the rules and procedures employed by the Commissioner of Social Security to evaluate the qualifications and performance of claimant representatives should be revised prior to any extensions of fee withholding.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

SEC. 401. ELIMINATION OF DEMONSTRATION AUTHORITY SUNSET DATE.

Section 234(d)(2) of the Social Security Act (42 U.S.C. 434(d)(2)) is amended—

(1) in the paragraph heading, by striking ''TERMINATION AND FINAL'' and inserting ''FINAL''; and

(2) by striking the first sentence.

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking ''(42 U.S.C. 401 et seq.),'' and inserting ''(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b–19) as they relate to the program established under title II of such Act,''.

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

''(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.''.

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

(1) IN GENERAL.—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b–20(c)(2)) is amended to read as follows:

''(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

''(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

''(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93–66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of

this Act or under section 212(b) of Public Law 93–66);

''(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

''(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

(1) DEFINITION OF DISABLED BENEFICIARY.—Section 1150(g)(2) of such Act (42 U.S.C. 1320b–21(g)(2)) is amended to read as follows:

''(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

''(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

''(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93–66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93–66);

''(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

''(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.''.

(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.—Section 1150(b)(2) of such Act (42 U.S.C. 1320b–21(b)(2)) is amended by striking ''secure or regain'' and inserting ''secure, maintain, or regain''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b–19(g)(1)) is amended by adding at the end, after and below subparagraph (E), the following:

''An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170; 113 Stat. 1921).

SEC. 406. GAO STUDY REGARDING THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) GAO REPORT.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress regarding the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19) that—

(1) examines the annual and interim reports issued by States, the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 1320b–19 note), and the Commissioner of Social Security regarding such program;

(2) assesses the effectiveness of the activities carried out under such program; and

(3) recommends such legislative or administrative changes as the Comptroller General determines are appropriate to improve the effectiveness of such program.

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) IN GENERAL.—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking ''and a transcript'' and inserting ''and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

(a) IN GENERAL.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) is amended—

(1) in paragraph (1), by striking ''section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof) of the Immigration and Nationality Act'' and inserting ''section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act'';

(2) in paragraph (2), by striking ''section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) or (1)(E) thereof)'' and inserting ''section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act'';

(3) in paragraph (3), by striking ''paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19)'' and inserting ''paragraph (4)(D) of section 241(a) of the Immigration and Nationality Act (relating to participating in Nazi persecutions or genocide) shall be considered to have been deported under such paragraph (4)(D)''; and

(4) in paragraph (3) (as amended by paragraph (3) of this subsection), by striking ''241(a)'' and inserting ''237(a)''.

(b) TECHNICAL CORRECTIONS.—

(1) TERMINOLOGY REGARDING REMOVAL FROM THE UNITED STATES.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a)) is amended further—

(A) by striking ''deportation'' each place it appears and inserting ''removal'';

(B) by striking ''deported'' each place it appears and inserting ''removed''; and

(C) in the heading, by striking ''Deportation'' and inserting ''Removal''.

(2) REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a) and paragraph (1)) is amended further by inserting ''or the Secretary of Homeland Security'' after ''the Attorney General'' each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by—

(A) subsection (a)(1) shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice after the date of the enactment of this Act;

(B) subsection (a)(2) shall apply with respect to notifications of removals received by the Commissioner of Social Security after the date of enactment of this Act; and

(C) subsection (a)(3) shall be effective as if enacted on March 1, 1991.

(2) SUBSEQUENT CORRECTION OF CROSS-REFERENCE AND TERMINOLOGY.—The amendments made by subsections (a)(4) and (b)(1) shall be effective as if enacted on April 1, 1997.

(3) REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.—The amendment made by subsection (b)(2) shall be effective as if enacted on March 1, 2003.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) WIDOWS.—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting ''except as provided in paragraph (2),'' before ''she was married'';

(4) by inserting ''(1)'' after ''(c)''; and

(5) by adding at the end the following:

''(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

''(A) the individual had been married prior to the individual's marriage to the surviving wife,

''(B) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity,

''(C) during the period of the prior wife's institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

''(D) the prior wife continued to remain institutionalized up to the time of her death, and

''(E) the individual married the surviving wife within 60 days after the prior wife's death.''.

(b) WIDOWERS.—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting ''except as provided in paragraph (2),'' before ''he was married'';

(4) by inserting ''(1)'' after ''(g)''; and

(5) by adding at the end the following:

''(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

''(A) the individual had been married prior to the individual's marriage to the surviving husband,

''(B) the prior husband was institutionalized during the individual's marriage to the prior husband due to mental incompetence or similar incapacity,

''(C) during the period of the prior husband's institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

''(D) the prior husband continued to remain institutionalized up to the time of his death, and

''(E) the individual married the surviving husband within 60 days after the prior husband's death.''.

(c) CONFORMING AMENDMENT.—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking ''clause (5) of subsection (c) or clause (5) of subsection (g)'' and inserting ''clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking ''to taxes or contributions for similar purposes under'' and inserting ''exclusively to the laws applicable to''.

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES.

(a) IN GENERAL.—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by striking ''the State of Alaska, California, Connecticut, Florida, Georgia, Illinois, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, North Dakota, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Wisconsin, or Hawaii'' and inserting ''a State''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) IN GENERAL.—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

''Compensation, Expenses, and Per Diem

''(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members 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 employed intermittently.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as of January 1, 2003.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR GOVERNMENT PENSION OFFSET EXEMPTION.

(a) WIFE'S INSURANCE BENEFITS.—Section 202(b)(4) of the Social Security Act (42 U.S.C. 402(b)(4)) is amended—

(1) in subparagraph (A), by striking ''if, on the last day she was employed by such entity'' and inserting ''if, during any portion of such service''; and

(2) in subparagraph (B)—

(A) in clause (ii), by striking ''Subparagraph (A)(ii)'' and inserting ''Clauses (i) and (ii) of subparagraph (A)''; and

(B) by adding at the end the following:

''(iii) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 pursuant to an agreement executed with the Commissioner of Social Security under section 218, provided that the wife (or divorced wife) was employed in such service—

''(I) on the date of enactment of this clause and such service was continuous throughout the 60-month period ending on the last day the wife (or divorced wife) was employed in the service of the State (or political subdivision thereof, as defined in section 218(b)(2)), or

''(II) in the case of such an agreement that was executed by the Commissioner of Social Security after the date of enactment of this clause, on the date such an agreement was executed by the Commissioner of Social Security and such service was continuous throughout the 60-month period ending on the last day the wife (or divorced wife) was employed in the service of the State (or political subdivision thereof, as so defined).''.

(b) HUSBAND'S INSURANCE BENEFITS.—Section 202(c)(2) of such Act (42 U.S.C. 402(c)(2)) is amended—

(1) in subparagraph (A), by striking ''if, on the last day he was employed by such entity'' and inserting ''if, during any portion of such service''; and

(2) in subparagraph (B)—

(A) in clause (ii), by striking ''Subparagraph (A)(ii)'' and inserting ''Clauses (i) and (ii) of subparagraph (A)''; and

(B) by adding at the end the following:

''(iii) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 pursuant to an agreement executed with the Commissioner of Social Security under section 218, provided that the husband (or divorced husband) was employed in such service—

''(I) on the date of enactment of this clause and such service was continuous throughout the 60-month period ending on the last day the husband (or divorced husband) was employed in the service of the State (or political subdivision thereof, as defined in section 218(b)(2)), or

''(II) in the case of such an agreement that was executed by the Commissioner of Social Security after the date of enactment of this clause, on the date such an agreement was executed by the Commissioner of Social Security and such service was continuous throughout the 60-month period ending on the last day the husband (or divorced husband) was employed in the service of the State (or political subdivision thereof, as so defined).''.

(c) WIDOW'S INSURANCE BENEFITS.—Section 202(e)(7) of such Act (42 U.S.C. 402(e)(7)) is amended—

(1) in subparagraph (A), by striking ''if, on the last day she was employed by such entity'' and inserting ''if, during any portion of such service''; and

(2) in subparagraph (B)—

(A) in clause (ii), by striking ''Subparagraph (A)(ii)'' and inserting ''Clauses (i) and (ii) of subparagraph (A)''; and

(B) by adding at the end the following:

''(iii) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 pursuant to an agreement executed with the Commissioner of Social Security under section 218, provided that the widow (or surviving divorced wife) was employed in such service—

''(I) on the date of enactment of this clause and such service was continuous throughout the 60-month period ending on the last day the widow (or surviving divorced wife) was employed in the service of the State (or political subdivision thereof, as defined in section 218(b)(2)), or

''(II) in the case of such an agreement that was executed by the Commissioner of Social Security after the date of enactment of this clause, on the date such an agreement was executed by the Commissioner of Social Security and such service was continuous throughout the 60-month period ending on the last day the widow (or surviving divorced wife) was employed in the service of the State (or political subdivision thereof, as so defined).''.

(d) WIDOWER'S INSURANCE BENEFITS.—Section 202(f)(2) of such Act (42 U.S.C. 402(f)(2)) is amended—

(1) in subparagraph (A), by striking ''if, on the last day he was employed by such entity'' and inserting ''if, during any portion of such service''; and

(2) in subparagraph (B)—

(A) in clause (ii), by striking ''Subparagraph (A)(ii)'' and inserting ''Clauses (i) and (ii) of subparagraph (A)''; and

(B) by adding at the end the following:

''(iii) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 pursuant to an agreement executed with the Commissioner of Social Security under section 218, provided that the widower (or surviving divorced husband) was employed in such service—

''(I) on the date of enactment of this clause and such service was continuous throughout the 60-month period ending on the last day the widower (or surviving divorced husband) was employed in the service of the State (or political subdivision thereof, as defined in section 218(b)(2)), or

''(II) in the case of such an agreement that was executed by the Commissioner of Social Security after the date of enactment of this clause, on the date such an agreement was executed by the Commissioner of Social Security and such service was continuous throughout the 60-month period ending on the last day the widower (or surviving divorced husband) was employed in the service of the State (or political subdivision thereof, as so defined).''.

(e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g)(4) of the such Act (42 U.S.C. 402(g)(4)) is amended—

(1) in subparagraph (A), by striking ''if, on the last day the individual was employed by such entity'' and inserting ''if, during any portion of such service''; and

(2) in subparagraph (B)—

(A) in clause (ii), by striking ''Subparagraph (A)(ii)'' and inserting ''Clauses (i) and (ii) of subparagraph (A)''; and

(B) by adding at the end the following:

''(iii) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 pursuant to an agreement executed with the Commissioner of Social Security under section 218, provided that the individual was employed in such service—

''(I) on the date of enactment of this clause and such service was continuous throughout the 60-month period ending on the last day the individual was employed in the service of the State (or political subdivision thereof, as defined in section 218(b)(2)), or

''(II) in the case of such an agreement that was executed by the Commissioner of Social Security after the date of enactment of this clause, on the date such an agreement was executed by the Commissioner of Social Security and such service was continuous throughout the 60-month period ending on the last day the individual was employed in the service of the State (or political subdivision thereof, as so defined).''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of the enactment of this Act, except that such amendments shall not apply with respect to applications for benefits under title II of the Social Security Act based on earnings while in the service of any State (or political subdivision thereof, as defined in section 218(b)(2) of the Social Security Act)—

(1) if the last day of such service occurs before December 31, 2003, or

(2) in any case in which the last day of such service occurs before June 30, 2004, subject to a contract for such service entered into prior to September 30, 2003.

SEC. 419. POST-1956 MILITARY WAGE CREDITS.

(a) PAYMENT TO THE SOCIAL SECURITY TRUST FUNDS IN SATISFACTION OF OUTSTANDING OBLIGATIONS.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

''(n) Not later than July 1, 2004, the Secretary of the Treasury shall transfer, from amounts in the general fund of the Treasury that are not otherwise appropriated—

''(1) $624,971,854 to the Federal Old-Age and Survivors Insurance Trust Fund;

''(2) $105,379,671 to the Federal Disability Insurance Trust Fund; and

''(3) $173,306,134 to the Federal Hospital Insurance Trust Fund.

Amounts transferred in accordance with this subsection shall be in satisfaction of certain outstanding obligations for deemed wage credits for 2000 and 2001.''.

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF AUTHORITY FOR ANNUAL APPROPRIATIONS AND RELATED ADJUSTMENTS TO COMPENSATE THE SOCIAL SECURITY TRUST FUND FOR MILITARY WAGE CREDITS.—Section 229 of the Social Security Act (42 U.S.C. 429) is amended—

(A) by striking ''(a)''; and

(B) by striking subsection (b).

(2) AMENDMENT TO REFLECT THE TERMINATION OF WAGE CREDITS EFFECTIVE AFTER CALENDAR YEAR 2001 BY SECTION 8134 OF PUBLIC LAW 107–117.—Section 229(a)(2) of the Social Security Act (42 U.S.C. 429(a)(2)), as amended by paragraph (1), is amended by inserting ''and before 2002'' after ''1977''.

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 1320b–13) is amended—

(1) by striking ''Secretary'' the first place it appears and inserting ''Commissioner of Social Security''; and

(2) by striking ''Secretary'' each subsequent place it appears and inserting ''Commissioner''.

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) IN GENERAL.—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting '', but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires'' before the semicolon.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking ''described in subsection (g)(5)'' and inserting ''on a farm operated for profit''.

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking ''described in section 210(f)(5)'' and inserting ''on a farm operated for profit''.

(c) CONFORMING AMENDMENT.—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking ''or is domestic service in a private home of the employer''.

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section 211(a)(15) of the Social Security Act (42 U.S.C. 411(a)(15)) is amended by striking ''section 162(m)'' and inserting ''section 162(l)''.

(b) ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking ''and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis''.

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking ''all of the gross income'' and all that follows and inserting ''the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions;''.

(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking ''all of the gross income'' and all that follows and inserting ''the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and''.

SEC. 426. TECHNICAL AMENDMENTS TO THE RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001.

(a) QUORUM RULES.—Section 15(j)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(7)) is amended by striking ''entire Board of Trustees'' and inserting ''Trustees then holding office''.

(b) POWERS OF THE BOARD OF TRUSTEES.—Section 15(j)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(4)) is amended to read as follows:

''(4) POWERS OF THE BOARD OF TRUSTEES.—The Board of Trustees shall—

''(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

''(B) invest assets of the Trust in a manner consistent with such investment guidelines, either directly or through the retention of independent investment managers;

''(C) adopt bylaws and other rules to govern its operations;

''(D) employ professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory or management services (compensation for which may be on a fixed contract fee basis or on such other terms as are customary for such services), or other services necessary for the proper administration of the Trust;

''(E) sue and be sued and participate in legal proceedings, have and use a seal, conduct business, carry on operations, and exercise its powers within or without the District of Columbia, form, own, or participate in entities of any kind, enter into contracts and agreements necessary to carry out its business purposes, lend money for such purposes, and deal with property as security for the payment of funds so loaned, and possess and exercise any other powers appropriate to carry out the purposes of the Trust;

''(F) pay administrative expenses of the Trust from the assets of the Trust; and

''(G) transfer money to the disbursing agent or as otherwise provided in section 7(b)(4), to pay benefits payable under this Act from the assets of the Trust.''.

(c) STATE AND LOCAL TAXES.—Section 15(j)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(6)) is amended to read as follows:

''(6) STATE AND LOCAL TAXES.—The Trust shall be exempt from any income, sales, use, property, or other similar tax or fee imposed or levied by a State, political subdivision, or local taxing authority. The district courts of the United States shall have original jurisdiction over a civil action brought by the Trust to enforce this subsection and may grant equitable or declaratory relief requested by the Trust.''.

(d) FUNDING.—Section 15(j)(8) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(8)) is repealed.

(e) TRANSFERS.—

(1) Section 15(k) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(k)) is amended by adding at the end the following: ''At the direction of the Railroad Retirement Board, the National Railroad Retirement Investment Trust shall transfer funds to the Railroad Retirement Account.''.

(2) Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(d)(2)) is amended—

(A) by inserting ''or the Railroad Retirement Account'' after ''National Railroad Retirement Investment Trust'' the second place it appears;

(B) by inserting ''or the Railroad Retirement Board'' after ''National Railroad Retirement Investment Trust'' the third place it appears;

(C) by inserting ''(either directly or through a commingled account consisting only of such obligations)'' after ''United States'' the first place it appears; and

(D) in the third sentence, by inserting before the period at the end the following: ''or to purchase such additional obligations''.

(3) Paragraph (4)(B)(ii) of section 7(b) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(4)(B)(ii)) is amended by inserting ''quarterly or at such other times as the Railroad Retirement Board and the Board of Trustees of the National Railroad Retirement Investment Trust may mutually agree'' after ''amounts'' the second place it appears.

(f) CLERICAL AMENDMENTS.—Section 15(j)(5) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(5)) is amended—

(1) in subparagraph (B), by striking ''trustee's'' each place it appears and inserting ''Trustee's'';

(2) in subparagraph (C), by striking ''trustee'' and ''trustees'' each place it appears and inserting ''Trustee'' and ''Trustees'', respectively; and

(3) in the matter preceding clause (i) of subparagraph (D), by striking ''trustee'' and inserting ''Trustee''.

Subtitle D—Amendments Related to Title XVI

SEC. 430. EXCLUSION FROM INCOME FOR CERTAIN INFREQUENT OR IRREGULAR INCOME AND CERTAIN INTEREST OR DIVIDEND INCOME.

(a) INFREQUENT OR IRREGULAR INCOME.—Section 1612(b)(3) of the Social Security Act (42 U.S.C. 1382a(b)(3)) is amended to read as follows—

''(3) in any calendar quarter, the first—

''(A) $60 of unearned income, and

''(B) $30 of earned income,

of such individual (and such spouse, if any) which, as determined in accordance with criteria prescribed by the Commissioner of Social Security, is received too infrequently or irregularly to be included;''.

(b) INTEREST OR DIVIDEND INCOME.—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (21), by striking ''and'' at the end;

(2) in paragraph (22), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(23) interest or dividend income from resources—

''(A) not excluded under section 1613(a), or

''(B) excluded pursuant to Federal law other than section 1613(a).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to

benefits payable for months in calendar quarters that begin more than 90 days after the date of the enactment of this Act.

SEC. 431. UNIFORM 9-MONTH RESOURCE EXCLUSION PERIODS.

(a) UNDERPAYMENTS OF BENEFITS.—Section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7)) is amended—

(1) by striking ''6'' and inserting ''9''; and

(2) by striking ''(or to the first 9 months following such month with respect to any amount so received during the period beginning October 1, 1987, and ending September 30, 1989)''.

(b) ADVANCEABLE TAX CREDITS.—Section 1613(a)(11) of the Social Security Act (42 U.S.C. 1382b(a)(11)) is amended to read as follows:

''(11) for the 9-month period beginning after the month in which received—

''(A) notwithstanding section 203 of the Economic Growth and Tax Relief Reconciliation Act of 2001, any refund of Federal income taxes made to such individual (or such spouse) under section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) by reason of subsection (d) thereof; and

''(B) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit);''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply to amounts described in paragraph (7) of section 1613(a) of the Social Security Act and refunds of Federal income taxes described in paragraph (11) of such section, that are received by an eligible individual or eligible spouse on or after such date.

SEC. 432. MODIFICATION OF DEDICATED ACCOUNT REQUIREMENTS.

(a) IN GENERAL.—Section 1631(a)(2)(F) of the Social Security Act (42 U.S.C. 1383(a)(2)(F)) is amended—

(1) in clause (ii)(II)—

(A) in item (ff), by striking ''or'' at the end;

(B) by redesignating item (gg) as item (hh);

(C) by inserting after item (ff) the following:

''(gg) reimbursement of expenditures incurred by the representative payee that are for the good of such individual; or''; and

(D) in the matter following item (hh) (as redesignated by subparagraph (B)), by striking ''(gg), is related to the impairment (or combination of impairments)'' and inserting ''(hh), is expended for the good''; and

(2) in clause (iv), by inserting '', including with respect to allowable expenses paid from the account in accordance with clause (ii)(II)'' before the period.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on January 1, 2004, and apply with respect to allowable expenses incurred or accounts established on or after that date.

SEC. 433. ELIMINATION OF CERTAIN RESTRICTIONS ON THE APPLICATION OF THE STUDENT EARNED INCOME EXCLUSION.

(a) IN GENERAL.—Section 1612(b)(1) of the Social Security Act (42 U.S.C. 1382a(b)(1)) is amended by striking ''a child who'' and inserting ''under the age of 22 and''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 434. EXCLUSION OF AMERICORPS AND OTHER VOLUNTEER BENEFITS FOR PURPOSES OF DETERMINING SUPPLEMENTAL SECURITY INCOME ELIGIBILITY AND BENEFIT AMOUNTS AND SOCIAL SECURITY DISABILITY INSURANCE ENTITLEMENT.

(a) IN GENERAL.—

(1) SSI.—

(A) INCOME.—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) (as amended by section 430(a)(2)) is amended—

(i) in paragraph (22), by striking ''and'' at the end;

(ii) in paragraph (23), by striking the period and inserting ''; and''; and

(iii) by adding at the end the following:

''(24) any cash or in-kind benefit conferred upon (or paid on behalf of) an individual serving as a volunteer or participant in a program administered by the Corporation for National and Community Service for service in such program.''.

(B) SUBSTANTIAL GAINFUL ACTIVITY.—Section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

''(K) In determining under subparagraph (A) when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity, the Commissioner of Social Security shall disregard services performed as a volunteer or participant in any program administered by the Corporation for National and Community Service, and any earnings derived from such service.''.

(2) SSDI.—Section 223(d)(4) of such Act (42 U.S.C. 423(d)(4)) is amended by adding at the end the following:

''(C) In determining under subparagraph (A) when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity, the Commissioner of Social Security shall disregard services performed as a volunteer or participant in any program administered by the Corporation for National and Community Service, and any earnings derived from such service.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months beginning on or after 60 days after the date of enactment of this Act.

SEC. 435. EXCEPTION TO RETROSPECTIVE MONTHLY ACCOUNTING FOR NONRECURRING INCOME.

(a) IN GENERAL.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)) is amended by adding at the end the following:

''(9)(A) Notwithstanding paragraphs (1) and (2), any nonrecurring income which is paid to an individual in the first month of any period of eligibility shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

''(B) For purposes of subparagraph (A), payments to an individual in varying amounts from the same or similar source for the same or similar purpose shall not be considered to be nonrecurring income.''.

(b) DELETION OF OBSOLETE MATERIAL.—Section 1611(c)(2)(B) of the Social Security Act (42 U.S.C. 1382(c)(2)(B)) is amended to read as follows:

''(B) in the case of the first month following a period of ineligibility in which eligibility is restored after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if eligibility had been restored on the first day of such month as the number of days in such month including and following the date of restoration of eligibility bears to the total number of days in such month.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 436. REMOVAL OF RESTRICTION ON PAYMENT OF BENEFITS TO CHILDREN WHO ARE BORN OR WHO BECOME BLIND OR DISABLED AFTER THEIR MILITARY PARENTS ARE STATIONED OVERSEAS.

(a) IN GENERAL.—Section 1614(a)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended—

(1) by inserting ''and'' after ''citizen of the United States,''; and

(2) by striking '', and who,'' and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months beginning after the date of enactment of this Act, but only on the basis of an application filed after such date.

SEC. 437. TREATMENT OF EDUCATION-RELATED INCOME AND RESOURCES.

(a) EXCLUSION FROM INCOME OF GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.—Section 1612(b)(7) of the Social Security Act (42 U.S.C. 1382a(b)(7)) is amended by striking ''or fellowship received for use in paying'' and inserting ''fellowship, or gift (or portion of a gift) used to pay''.

(b) EXCLUSION FROM RESOURCES FOR 9 MONTHS OF GRANTS, SCHOLARSHIPS, FELLOWSHIPS, OR GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.—Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)) (as amended by section 101(c)(2)) is amended—

(1) in paragraph (13), by striking ''and'' at the end;

(2) in paragraph (14), by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (14) the following:

''(15) for the 9-month period beginning after the month in which received, any grant, scholarship, fellowship, or gift (or portion of a gift) used to pay the cost of tuition and fees at any educational (including technical or vocational education) institution.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

SEC. 438. MONTHLY TREATMENT OF UNIFORMED SERVICE COMPENSATION.

(a) TREATMENT OF PAY AS RECEIVED WHEN EARNED.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)), as amended by section 435(a), is amended by adding at the end the following:

''(10) For purposes of this subsection, remuneration for service performed as a member of a uniformed service may be treated as received in the month in which it was earned, if the Commissioner of Social Security determines that such treatment would promote the economical and efficient administration of the program authorized by this title.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

SEC. 439. UPDATE OF RESOURCE LIMITS.

(a) INCREASE.—Section 1611(a)(3) of the Social Security Act (42 U.S.C. 1382(a)(3)) is amended—

(1) in subparagraph (A), by adding at the end the following: ''On January 1, 2004, such dollar amount shall be increased to an amount equal to 150 percent of the dollar amount applicable to an individual described in paragraph (1)(B)(ii).''; and

(2) in subparagraph (B)—

(A) by striking ''and'' the last place it appears; and

(B) by inserting '', and to $3,000 on January 1, 2004'' before the period.

(b) COST-OF-LIVING ADJUSTMENT.—Section 1617(a)(1) of the Social Security Act (42 U.S.C. 1382f(a)(1)) is amended by inserting ''(a)(3)(B),'' before ''(b)(1)''.

(c) EFFECTIVE DATES.—

(1) INCREASE.—The amendments made by subsection (a) shall take effect on January 1, 2004.

(2) COST-OF-LIVING ADJUSTMENT.—The amendment made by subsection (b) shall take effect on January 1, 2005.

SEC. 440. REVIEW OF STATE AGENCY BLINDNESS AND DISABILITY DETERMINATIONS.

Section 1633 of the Social Security Act (42 U.S.C. 1383b) is amended by adding at the end the following:

''(e)(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this title on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled. Any review by the Commissioner of Social Security of a State agency determination under this paragraph shall be made before any action is taken to implement the determination.

''(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

''(i) with respect to fiscal year 2004, at least 25 percent of all determinations referred to in paragraph (1) that are made in such year after the later of—

''(I) March 31; and

''(II) the date of enactment of this subsection; and

''(ii) with respect to fiscal years after fiscal year 2004, at least 50 percent of all such determinations that are made in each such fiscal year.

''(B) In conducting reviews pursuant to subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review those determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.''.

Mr. GRASSLEY. Mr. President, I urge my colleagues to support H.R. 743, the Social Security Protection Act of 2003.

The Social Security Protection Act of 2003 provides the Social Security Administration with important new tools to fight waste, fraud, and abuse. This bill would eliminate benefits to fugitive felons. It would prohibit benefits to illegal workers. It would eliminate the ''last day'' loophole in the Government Pension Offset. It would provide additional oversight of representative payees. Finally, the bill would improve benefits for person with disabilities.

This bill passed the House of Representatives in April. The Senate Committee on Finance approved the bill in September with a number of important changes.

In order to expedite passage of this legislation, Senator BAUCUS and I have worked closely with the chairman and the ranking member of the Social Security Subcommittee of the House Ways and Means Committee over the past several weeks. The result of this work is reflected in the managers' amendment that has now been incorporated into this bill.

I have drafted an explanation of the amendment that has been agreed to by the chairman and the ranking member of the House Social Security Subcommittee, as well as by the chairman and ranking member of the Senate Finance Committee. I ask unanimous consent that the explanation be printed in the RECORD.

I strongly urge my colleagues to support this commonsense, bipartisan legislation.

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

EXPLANATION OF THE MANAGER'S AMENDMENT TO H.R. 743, THE ''SOCIAL SECURITY PROTECTION ACT OF 2003'' AS REPORTED BY THE SENATE COMMITTEE ON FINANCE, REPORT 108–176

Section 107. Survey of use of payments by representative payees

The Manager's amendment would limit the scope and cost of the survey and change the organization designated to have the responsibility for conducting the survey.

As a result of the Manager's amendment, the Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration (SSA), the General Accounting Office, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, shall conduct a one-time audit of a representative sample of representative payees who are not subject to triennial onsite review or other random review under SSA policy or law, as amended by this bill. That is, the sample shall include individual representative payees serving one or several beneficiaries; individual ''high-volume'' payees serving more than several but fewer than 15 beneficiaries; individual ''high-volume'' payees serving more than several but fewer than 15 beneficiaries; and non-fee-for-service organizational payees who are serving fewer than 50 beneficiaries. The cost of this audit will not be greater than $8.5 million. The results of the audit should be presented in a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

The audit shall assess the extent to which representative payees are not performing their duties as payees in accordance with SSA standards for payee conduct. Such SSA standards include, but are not limited to, whether the funds are being used for the benefit of the beneficiary. To the extent possible, the report shall identify which types of payees have the highest risk of misuse of benefits, and suggest ways to reduce those risks and better protect beneficiaries.

In conducting the audit, the Commissioner shall take special care to avoid excessive intrusiveness into family affairs, including making appropriate adjustments to its audit methodology. if some or all of the audit is contracted out, such contractor shall be chosen with due regard for its experience in conducting reviews of individuals and families, as well as businesses and other organizations.

In the course of conducting the audit and preparing the report, the Commissioner, or a designated contractor, may make observations about the adequacy of payees' actions and recommendations for change or further review. However, determinations as to whether funds have been misused and/or whether a payee should be changed must be made only by the Commissioner. Further, those conducting the survey should not provide advice, guidance or other feedback to payees that are reviewed under this audit regarding their performance as payees.

This provision authorizes and appropriates up to $8.5 million under subsection 1110(a) of the Social Security Act to carry out this audit. However, these funds are appropriated in addition to any funds appropriated for this subsection under any other law. There is no intention of reducing the funds that would otherwise be available under this subsection to carry out any other projects.

It is expected that the Commissioner will carry out a survey that is statistically valid at reasonable levels of confidence and precision. However, if the Commissioner determines that such a survey can be prepared for less than the amount appropriated, then the full $8.5 million should not be used. The Commissioner has the authority to limit the amount expended under this provision to that lesser amount. The Committees expect the Commissioner to carefully assess the design of the audit to ensure that it is being performed as economically as possible, while still meeting the objective of obtaining information that is of sufficient statistical validity to assist in increasing the knowledge and understanding of the representative payee program and facilitating its possible improvement.

Effective Date

The report will be due to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate 18 months after the date of enactment of this Act.

Section 203. Denial of Title II benefits to persons fleeing prosecution, custody, or confinement, and to persons violating probation or parole

The Manager's amendment would substitute the following ''good cause'' exception for the original provision included in the Committee-reported bill.

Press accounts, hearing testimony and other information provided to the Committees have identified cases in which benefit continuation may be justified due to extenuating circumstances. In light of this, the provision gives the Commissioner authority to pay Title II or Title XVI benefits that were withheld, or would otherwise be withheld, if there is good cause in the following circumstances:

First, the Commissioner shall apply the good cause exception if a court of competent jurisdiction finds the person is not guilty, charges are dismissed, a warrant for arrest is vacated, or there are similar exonerating circumstances found by the court.

Second, the Commissioner shall apply the good cause exception if the individual establishes to the satisfaction of the Commissioner that he or she was the victim of identity fraud and the warrant was erroneously issued on such basis.

Third, the Commissioner may apply the good cause exception if the criminal offense was non-violent and not drug-related, and in the case of probation or parole violators, both the violation and the underlying offense were non-violent and not drug-related. However, in such cases, the Commissioner may only establish good cause based on mitigating factors such as the nature and severity of the crime, the length of time that has passed since the warrant was issued, whether other crimes have been committed in the interim, and the beneficiary's mental capacity to resolve the issue.

This document (which is to accompany the Manager's amendment) also seeks to clarify two issues with respect to current law. First, section 1611(e)(5)(A)(ii) of the Social Security Act (42 USC 1382(e)(5)(A)(ii)) requires a law enforcement officer to notify the Commissioner that an SSI recipient has information necessary for the officer to conduct his official duties.

The Manager's amendment deletes this information requirement in (A)(ii) to clarify that a law enforcement officer only needs to notify the Commissioner of the recipient's fugitive status (or parole / probation status), and the officer's duty to locate or apprehend the recipient. This change is not intended to have any effect on the existing interpretation or application of section 1611 and is consistent with current practices and procedures.

Second, several recent decisions by Administrative Law Judges have noted that neither

the current statute nor the current regulations define the phrase ''fleeing to avoid prosecution.'' This report provides the following clarification. If it is reasonable to conclude that the individual knew or should have known that criminal charges were pending, or has been made aware of such charges by the SSA, then the individual should be considered ''fleeing,'' whether or not law enforcement seeks arrest or extradition.

Section 206. Penalty for corrupt or forcible interference with administration of the Social Security Act

The Manager's amendment makes a technical correction to address a drafting error.

Section 209. Authority for judicial orders of restitution

The Manager's amendment makes technical corrections and eliminates the special restitution account created within the Treasury Department. Funds collected through restitution would instead be credited to the Social Security trust funds or the general fund of the U.S. Treasury, as appropriate.

Section 210. Information for administration of provisions related to non-covered employment

The Manager's amendment would strike this section.

Section 212. Prohibition of payment of Title II benefits to persons not authorized to work in the United States

The Manager's amendment would make a technical correction related to certain noncitizens and change the effective date.

B–1 visa holders are generally aliens visiting the United States temporarily for business on behalf of a foreign employer. According to State Department regulations, the B–1 visa holder conducts business as a continuation of his foreign employment. D visa holders are generally alien flight attendants who enter into an employment contract in the United States with a U.S. airline and who only fly into and out of the United States.

Although these categories of visa holders are not technically authorized to work in the United States, such persons are legally present in the United States while they are working. Thus, they should not be subject to the benefit prohibition.

The Manager's amendment would also change the effective date to limit the application of this provision to persons with Social Security numbers issued after January 1, 2004. This change would provide the Social Security Administration the opportunity to develop the recordkeeping system necessary to enforce the provision.

Section 302. Temporary extension of attorney fee payment system to Title XVI claims

The Manager's amendment re-designates Section 302 as Section 304 and adopts the House-passed provision to extend the current Title II attorney fee withholding process to Title XVI for a period of five years.

The amendment would also cap the 6.3 percent assessment on approved attorney representation fees at $75 (indexed for inflation), as provided for Title II claims under Section 301 of the bill.

With respect to the cap of $75 for Title II and Title XVI claims, it should be noted that the cap applies on a per case basis. (Concurrent cases shall be treated as a single case for this purpose.) In a case multiple representatives, the SAA should apply the assessment proportionately to each representative issued a check and in no case should the cumulative assessment exceed $75.

Finally, the amendment would amend the existing dedicated account and installment payment provisions in Title XVI. Under current law, dedicated accounts are required when an individual receives past-due benefits equal to 6 times the Federal Benefit Rate (FBR); installment payments are required when past due benefits are to be 12 times the FBR. The amendment clarifies that these triggering amounts would be based on the amount of past-due benefits that remain after attorney fees that the Social Security Administration paid directly to the attorney out of past-due benefits are deducted.

Effective Date

Applies with respect to fees for representation that are first required to be certified or paid on or after the date the Commissioner submits to Congress a notice that she has completed the actions necessary to fully implement the demonstration project under Section 303.

Section 303. Nationwide demonstration project providing for extension of fee withholding procedures to non-attorney representatives

The Manager's amendments adds the following new section.

Present Law

An individual applying for Title II or Title XVI benefits may seek the assistance of another person. The person assisting the applicant may not charge or receive a fee unless the Social Security Administration (SSA) approves it. If the person assisting the individual is an attorney and the individual is awarded past-due benefits under Title II, the SSA may deduct the attorney's fee from the individual's benefits and pay the attorney directly—minus a fee to cover the SSA's administrative costs.

Explanation of Provision

This provision would authorize a nationwide demonstration project to allow non-attorneys the option of fee withholding under both Title II and Title XVI for a period of five years. The SSA would charge a 6.3 percent assessment on approved fees, subject to a $75 cap (indexed for inflation), as applies to attorneys under section 206 and section 1631(d)(2) of the Act.

Non-attorney representatives seeking direct payment of fees under the demonstration project would need to meet at least the following prerequisites: hold a bachelor's degree or equivalent experience, pass an examination written and administered by the Commissioner, secure professional liability insurance or the equivalent, undergo a criminal background check, and complete continuing education courses. The provision would require the Commissioner to implement and carry out the demonstration project no later than one year after the date of enactment. The demonstration project would terminate 5 years after being fully implemented.

The Commissioner may charge a reasonable fee to individuals seeking approval for direct payments. Such fees should be comparable to the fees charged to other professionals subject to similar regulation.

The Commissioner should consult with relevant experts in the area of disability policy and professional ethics (including, but not limited to, experienced non-attorney and attorney disability claimant representatives, disability advocates, and organizations that develop and administer examinations for the regulation of professionals) in developing the exam and in determining whether other prerequisites should be required.

The Commissioner would be required to submit interim reports on the progress of the demonstration and a final report after the conclusion of the demonstration.

Reason for Change

The demonstration project authorized by this section would allow the SSA to pay all qualified representatives directly out of past-due benefits for Title II and Title XVI claims and would enable Congress (in conjunction with the GAO study required under Section 304) to assess whether such an extension of fee withholding would increase access to qualified professional representation.

Effective Date

Applies with respect to fees for representation that are first required to be certified or paid after the date the Commissioner submits to Congress a notice that she has completed the actions necessary to fully implement this demonstration project. The interim reports would be due annually, and the final report would be due 90 days after the termination of the demonstration.

Section 304. GAO study of fee payment process for claimant representatives

The Manager's amendment re-designates Section 302 as Section 304 and modifies the GAO study.

The Committee-reported bill called for a study based upon the potential results of extending fee withholding to Title XVI and to non-attorneys. As modified by the Manager's amendment, the study will now be based on the actual results of such an extension as provided in Section 302 and Section 303 of the bill.

The GAO report would provide a comprehensive overview of the appointment and payment of claimant representatives. It would include a survey of all categories of representatives—both attorneys and non-attorneys, as well as those who do and do not elect fee withholding. It would compare claimant outcomes by type of representatives. It would also compare the costs and benefits of fee withholding from the perspective of the Social Security Administration, claimants, and representatives.

GAO would evaluate the interactions between fee withholding, the windfall offset, and interim assistance reimbursement. This evaluation would consider the effects of such interactions on claimant outcomes, access to representatives, and reimbursements to the Federal and State governments.

Finally, GAO would make recommendations for any legislative or administrative changes deemed appropriate. The report would be due no later than 3 years after the implementation date of Section 303.

Section 401. Application of demonstration authority sunset date to new projects

The Manager's amendment would extend the demonstration authority through December 18, 2005, rather than making it permanent, and allow projects initiated by December 17, 2005 to be completed thereafter.

Section 407. Reauthorization of appropriations for certain work incentives programs

The Manager's amendment adds the following new section.

Present Law

The Ticket to Work Act directs SSA to establish a community-based program to provide benefit planning and assistance to disabled beneficiaries. To establish this program, SSA is required to award cooperative agreements (or grants or contracts) to State or private entities. Services include disseminating accurate information on work incentive programs (the Ticket to Work, section 1619 programs, etc.) and related issues to all disabled beneficiaries. In fulfillment of this requirement, SSA has established the Benefits Planning, Assistance, and Outreach (BPAO) program. The Act also authorizes SSA to award grants to State protection and advocacy (P&A) systems so that they can provide protection and advocacy services to disabled beneficiaries. Services include information and advice about obtaining vocational rehabilitation and employment services and advocacy or other services that a

disabled beneficiary may need to secure, maintain, or regain employment. SSA has established the Protection and Advocacy to Beneficiaries of Social Security (PABSS) Program pursuant to this authorization.

The Ticket to Work Act authorizes certain funding amounts to be appropriated for these BPAO and PABSS programs for the fiscal years 2000 through 2004.

Explanation of Provision

This provision extends the authorization to appropriate funding for these programs for another five fiscal years.

Reason for Change

SSA cannot continue to fund the BPAO and PABSS programs beyond fiscal year 2004 without an extension of authorization. These programs provide essential vocational rehabilitation and employment services for disabled beneficiaries to secure, maintain, and regain employment and reduce their dependency on cash benefit programs.

Effective Date

Upon enactment.

Section 416. Coverage under divided retirement system for public employees in Kentucky and Louisiana

The Manager's amendment would incorporate the House-passed provision in place of the Committee's provision, and add the State of Louisiana, as requested by its State Treasurer.

Section 418. 60-month period of employment requirement for application of government pension offset exemption

The Manager's amendment would adopt the House-passed provision with a revised effective date and transition rule. This provision is effective with respect to individuals whose last day of State or local government service occurs on or after July 1, 2004. The Manager's amendment would adopt the House-passed provision with a revised effective date and transition rule. This provision is effective with respect to individuals whose last day of State or local government service occurs on or after July 1, 2004. The transition rule allows State or local employees, who retire from government employment within five years of enactment, to count previous work within the same retirement system towards the 60-month requirement. Such previous work must meet both of the following criteria: (a) the work was covered under both Social Security and the government pension system, and (b) the work was performed prior to the date of enactment.

The Manager's amendment also consolidated existing provisions of the Social Security Act in order to co-locate the government pension offset provision with the provision on which it is modeled, the dual entitlement rule for covered workers.

Section 419. Disclosure to workers of effect of windfall elimination provision and government pension offset provision

The Manager's amendment re-designates Section 419 as Section 420 and adds the following new section.

Present Law

There are approximately 7.5 million workers who do not pay taxes into the Social Security system. The majority of these workers are State and local government employees. Many of these government workers may eventually qualify for Social Security as the result of other employment, or as the spouse or survivor of a worker covered by Social Security. The Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP) were enacted—in 1977 and 1983, respectively—to provide more equitable treatment of covered and non-covered workers.

Explanation of Provision

This provision requires the Social Security Administration to send a modified Social Security Statement to non-covered employees that describes the potential maximum benefit reductions that may result from the receipt of a Federal, State, or local government pension based on employment that is not subject to Social Security payroll taxes.

It also requires government employers to notify newly hired non-covered employees of the potential maximum effect of non-covered work on their Social Security benefits. The employer shall obtain signed documentation of such notification from the employee and transmit a copy to the pension paying entity.

Reason for Change

Organizations representing State and local employees report their members are often unaware of the GPO and WEP provisions until they apply for retirement benefits. The Committee believes the Social Security Administration should utilize the annual earnings statement mailed to every employee age 25 and over to more explicitly inform State and local employees about the GPO and WEP. It is important that these employees also be informed about their options to become exempt from these provisions by electing coverage under the Social Security program.

Efective Date

Government employers must provide notification of the potential effect of non-covered work beginning with employees hired on or after January 1, 2005. The Social Security Administration must provide the modified Social Security Statements beginning January 1, 2007.

Section 420A. Elimination of disincentives to return to work for childhood disability beneficiaries

The Manager's amendment adds the following new section.

Current Law

A Childhood Disability Beneficiary (CDB)—sometimes also referred to as a Disabled Adult Child (DAC)—whose benefits terminate because disability ceased can become re-entitled on the parent's record only if he or she is disabled within the 7-year period following the month benefits terminate and is not entitled to higher benefits on his or her own record.

Explanation of Provision

The provisions would allow re-entitlement to childhood disability benefits after the 7-year period if the beneficiary's previous entitlement had terminated because disability ceased due to the performance of Substantial Gainful Activity (SGA) and the beneficiary is not entitled to higher benefits on his or her own record. This provision would not apply to beneficiaries whose previous entitlement terminated based on medical improvement.

Reason for Change

Prohibiting re-entitlement to childhood disability benefits after the expiration of the 7-year period is a significant disincentive to return-to-work for a CDB. Many CDBs find that the benefits for which they qualify on their own work record are less—often significantly less—than the benefits they received as a CDB based on a parent's work history. The permanent loss of benefits on the parent's record remains a major disincentive for a CDB to attempt to return to work, one not addressed by the Ticket to Work and Work Incentives Improvement Act of 1999. Although this provision is expected to affect very few individuals, the change will make a significant difference for those individuals in their efforts to work to the fullest extent possible.

Effective Date

The provision is effective on the first day of the seventh month that begins after the date of enactment of this Act.

Section 426. Technical amendments to the Railroad Retirement and Survivors' Improvement Act of 2001

The Manager's amendment strikes subsections (e)(1) and (e)(3).

Section 432. Modification of the dedicated account requirements

The Manager's amendment strikes this section.

Section 434. Exclusion of Americorps and other volunteer benefits for purposes of determining supplemental security income eligibility and benefit amounts and social Security disability insurance entitlement

The Manager's amendment strikes this section.

Section 439. Update of resource limit

The Manager's amendment strikes this section.

Section 440. Review of state agency blindness and disability determinations

The Manager's amendment strikes this section.

Mr. BAUCUS. Mr. President, I rise today to urge my colleagues to support H.R. 743, the Social Security Protection Act of 2003 as modified. H.R. 743 is bipartisan legislation developed by Ways and Means Social Security Subcommittee Chairman SHAW and Ranking Member MATSUI. H.R. 743 passed the House by a vote of 396 to 28, and was reported by the Committee on Finance with unanimous support. In keeping with the bipartisan tradition of the Senate Finance Committee and with the bipartisan origins of this legislation, Senator GRASSLEY and I have worked together to further refine this legislation for Senate consideration.

H.R. 743 makes a number of important changes to the Social Security and Supplemental Security Income, SSI, programs. These changes will accomplish a number of important goals: they will enhance the financial security of some of the most vulnerable beneficiaries of these programs, increase protections to seniors from deceptive practices by individuals in the private sector, reduce disincentives to employment for disabled individuals, improve program integrity and thereby save money for the Social Security and Medicare trust funds and for taxpayers, and make the Social Security program more equitable.

One of the most important results of this legislation will be to enhance the financial security of the almost 7 million Social Security and SSI beneficiaries who are not capable of managing their own financial affairs due to advanced age or disability. The Social Security Administration, SSA, currently appoints individuals or organizations to act as ''representative payees'' for such beneficiaries. Most of these representative payees perform their roles conscientiously. However, some do not—indeed there have even been instances of terrible abuse in this program.

It is imperative that Congress take action to guard vulnerable seniors and disabled individuals from such abuse. This legislation increases requirements for SSA to provide restitution to beneficiaries when representative payees defraud the beneficiaries of their benefits. The legislation also tightens the qualifications for representative payees, increases oversight of the program, and imposes stricter penalties on those who violate their responsibilities. Finally, the legislation provides—for the first time ever—that there will be a one-time audit of a representative sample of representative payees to assess the extent to which representative payees are not using the beneficiary's funds for the benefit of the beneficiary.

The legislation expands the protection to seniors and disabled individuals by increasing the list of references to Social Security, Medicare and Medicaid which cannot be used by private-sector individuals, companies and organizations to give a false impression of Federal endorsement. The legislation also protects seniors from those who deceptively attempt to charge them for services that the seniors could receive for free from SSA.

The legislation eliminates a disincentive to return to work for childhood disability beneficiaries. The provision would make it easier to regain childhood disability benefits for disabled adult children who had returned to work at one time. Additionally, H.R. 743 also includes technical amendments to improve the effectiveness of the Ticket to Work and Work Incentives Improvement Act, legislation passed in 1999 to help beneficiaries with disabilities become employed and move toward self-sufficiency.

H.R. 743 improves program integrity by expanding the current prohibition against paying benefits to fugitive felons. As part of the 1996 welfare reform law, Congress banned the payment of SSI benefits to these individuals. However, under current law, fugitive felons can still receive Social Security benefits under title II. This legislation prohibits the payment of title II Social Security benefits to fugitive felons.

The bill also makes the Social Security program more equitable by including a provision to make an exemption to the Government Pension Offset more uniform. The Government Pension Offset, GPO, was enacted in order to equalize the treatment of workers in jobs not covered by Social Security and workers in jobs covered by Social Security, with respect to spousal and survivors benefits. The GPO reduces the Social Security spousal or survivors benefit by an amount equal to two-thirds of the Government pension. However, as a GAO report highlighted, State and local government workers are exempt from the GPO if their job on their last day of employment was covered by Social Security. In contrast, Federal workers who switched from the Civil Service Retirement System, CSRS, a system that is not covered by Social Security, to the Federal Employee Retirement System, FERS, a system that is covered by Social Security, must work for 5 years under FERS in order to be exempt from the GPO. H.R. 743 makes the exemption to the Government Pension Offset similar for State and local government workers as for Federal Government workers.

I believe that each of the provisions of H.R. 743 deserve the support of the Senate. Moreover, in an attempt to expedite Congressional passage of this legislation, the changes that Senator GRASSLEY and I want to make to the bill as reported by the Finance Committee have already been worked out with both the chairman and the ranking member of the Social Security Subcommittee of the House Ways and Means Committee. Moreover, we have ''report language'' that has been agreed to by the chairman and the ranking member of the Social Security Subcommittee—as well as by the chairman and ranking member of the Senate Finance Committee which will be included in the CONGRESSIONAL RECORD directly following the legislative language. This statement provides details about each of the provisions of the legislation, as well as the rationale behind each provision.

This legislation contains the types of improvements we can all agree on, as demonstrated by the overwhelming bipartisan vote in the House, and the bipartisan, bicameral agreement of the chairmen and ranking members of the committees of jurisdiction. I wholeheartedly urge my colleagues in the Senate to approve these sensible and important changes.

Mr. FRIST. Mr. President, I ask unanimous consent that the Grassley amendment at the desk be agreed to, the committee substitute, as amended, be agreed to; the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2227) was agreed to.

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

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (H.R. 743), as amended, was read the third time and passed, as follows:

H.R. 743

Resolved, That the bill from the House of Representatives (H.R. 743) entitled ''An Act to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Social Security Protection Act of 2003''.

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

(a) TITLE II AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 205(j)(5) of the Social Security Act (42 U.S.C. 405(j)(5)) is amended by inserting after the first sentence the following: ''In any case in which a representative payee that—

''(A) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of paragraph (4)(B)); or

''(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title VIII, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B).''.

(2) MISUSE OF BENEFITS DEFINED.—Section 205(j) of such Act (42 U.S.C. 405(j)) is amended by adding at the end the following:

''(8) For purposes of this subsection, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this paragraph.''.

(b) TITLE VIII AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended further by inserting after the first sentence the following: ''In any case in which a representative payee that—

''(A) is not an individual; or

''(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title XVI, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of subsection (l)(2).''.

(2) MISUSE OF BENEFITS DEFINED.—Section 807 of such Act (42 U.S.C. 1007) is amended by adding at the end the following:

''(j) MISUSE OF BENEFITS.—For purposes of this title, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person under this title and converts such payment, or any part thereof, to a use other than for the use and benefit of such person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this subsection.''.

(3) TECHNICAL AMENDMENT.—Section 807(a) of such Act (42 U.S.C. 1007(a)) is amended, in the first sentence, by striking ''for his or her benefit'' and inserting ''for his or her use and benefit''.

(c) TITLE XVI AMENDMENTS.—

(1) REISSUANCE OF BENEFITS.—Section 1631(a)(2)(E) of such Act (42 U.S.C. 1383(a)(2)(E)) is amended by inserting after the first sentence the following: ''In any case in which a representative payee that—

''(i) is not an individual (regardless of whether it is a 'qualified organization' within the meaning of subparagraph (D)(ii)); or

''(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this title, title II, title VIII, or any combination of such titles;

misuses all or part of an individual's benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary's alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii).''.

(2) EXCLUSION OF REISSUED BENEFITS FROM RESOURCES.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(A) in paragraph (12), by striking ''and'' at the end;

(B) in paragraph (13), by striking the period and inserting ''; and''; and

(C) by inserting after paragraph (13) the following:

''(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this title as restitution for benefits under this title, title II, or title VIII that a representative payee of such individual (or spouse) or such other person under section 205(j), 807, or 1631(a)(2) has misused.''.

(3) MISUSE OF BENEFITS DEFINED.—Section 1631(a)(2)(A) of such Act (42 U.S.C. 1383(a)(2)(A)) is amended by adding at the end the following:

''(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this title for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this clause.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner of Social Security makes the determination of misuse on or after January 1, 1995.

SEC. 102. OVERSIGHT OF REPRESENTATIVE PAYEES.

(a) CERTIFICATION OF BONDING AND LICENSING REQUIREMENTS FOR NONGOVERNMENTAL ORGANIZATIONAL REPRESENTATIVE PAYEES.—

(1) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) is amended—

(A) in paragraph (2)(C)(v), by striking ''a community-based nonprofit social service agency licensed or bonded by the State'' in subclause (I) and inserting ''a certified community-based nonprofit social service agency (as defined in paragraph (9))'';

(B) in paragraph (3)(F), by striking ''community-based nonprofit social service agencies'' and inserting ''certified community-based nonprofit social service agencies (as defined in paragraph (9))'';

(C) in paragraph (4)(B), by striking ''any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee'' and inserting ''any certified community-based nonprofit social service agency (as defined in paragraph (9))''; and

(D) by adding after paragraph (8) (as added by section 101(a)(2) of this Act) the following:

''(9) For purposes of this subsection, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which

shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.''.

(2) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended—

(A) in subparagraph (B)(vii), by striking ''a community-based nonprofit social service agency licensed or bonded by the State'' in subclause (I) and inserting ''a certified community-based nonprofit social service agency (as defined in subparagraph (I))'';

(B) in subparagraph (D)(ii)—

(i) by striking ''or any community-based'' and all that follows through ''in accordance'' in subclause (II) and inserting ''or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance'';

(ii) by redesignating items (aa) and (bb) as subclauses (I) and (II), respectively (and adjusting the margins accordingly); and

(iii) by striking ''subclause (II)(bb)'' and inserting ''subclause (II)''; and

(C) by adding at the end the following:

''(I) For purposes of this paragraph, the term 'certified community-based nonprofit social service agency' means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(b) PERIODIC ONSITE REVIEW.—

(1) TITLE II AMENDMENT.—Section 205(j)(6) of such Act (42 U.S.C. 405(j)(6)) is amended to read as follows:

''(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this title (alone or in combination with benefits payable under title VIII or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 807, or section 1631(a)(2) in any case in which—

''(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

''(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (9) of this subsection or section 1631(a)(2)(I)); or

''(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

''(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

''(i) the number of such reviews;

''(ii) the results of such reviews;

''(iii) the number of cases in which the representative payee was changed and why;

''(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

''(v) the number of cases discovered in which there was a misuse of funds;

''(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

''(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

''(viii) such other information as the Commissioner deems appropriate.''.

(2) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 101(b)(2) of this Act) is amended further by adding at the end the following:

''(k) PERIODIC ONSITE REVIEW.—

''(1) IN GENERAL.—In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner may provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this section, section 205(j), or section 1631(a)(2) in any case in which—

''(A) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals; or

''(B) the representative payee is an agency that serves in that capacity with respect to 50 or more such individuals.

''(2) REPORT.—Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to paragraph (1) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

''(A) the number of such reviews;

''(B) the results of such reviews;

''(C) the number of cases in which the representative payee was changed and why;

''(D) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

''(E) the number of cases discovered in which there was a misuse of funds;

''(F) how any such cases of misuse of funds were dealt with by the Commissioner;

''(G) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

''(H) such other information as the Commissioner deems appropriate.''.

(3) TITLE XVI AMENDMENT.—Section 1631(a)(2)(G) of such Act (42 U.S.C. 1383(a)(2)(G)) is amended to read as follows:

''(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this title (alone or in combination with benefits payable under title II or title VIII) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 205(j), or section 807 in any case in which—

''(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

''(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 205(j)(9)); or

''(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

''(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this title. Each such report shall describe in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

''(I) the number of the reviews;

''(II) the results of such reviews;

''(III) the number of cases in which the representative payee was changed and why;

''(IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

''(V) the number of cases discovered in which there was a misuse of funds;

''(VI) how any such cases of misuse of funds were dealt with by the Commissioner;

''(VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

''(VIII) such other information as the Commissioner deems appropriate.''.

SEC. 103. DISQUALIFICATION FROM SERVICE AS REPRESENTATIVE PAYEE OF PERSONS CONVICTED OF OFFENSES RESULTING IN IMPRISONMENT FOR MORE THAN 1 YEAR OR FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT.

(a) TITLE II AMENDMENTS.—Section 205(j)(2) of the Social Security Act (42 U.S.C. 405(j)(2)) is amended—

(1) in subparagraph (B)(i)—

(A) by striking ''and'' at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

''(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

''(V) obtain information concerning whether such person is a person described in section 202(x)(1)(A)(iv), and'';

(2) in subparagraph (B), by adding at the end the following:

''(iii) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under

this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

''(I) such person is described in section 202(x)(1)(A)(iv),

''(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

''(III) the location or apprehension of such person is within the officer's official duties.'';

(3) in subparagraph (C)(i)(II)—

(A) by striking ''subparagraph (B)(i)(IV),,'' and inserting ''subparagraph (B)(i)(VI)''; and

(B) by striking ''section 1631(a)(2)(B)(ii)(IV)'' and inserting ''section 1631(a)(2)(B)(ii)(VI)''; and

(4) in subparagraph (C)(i)—

(A) by striking ''or'' at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a comma; and

(C) by adding at the end the following:

''(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

''(V) such person is person described in section 202(x)(1)(A)(iv).''.

(b) TITLE VIII AMENDMENTS.—Section 807 of such Act (42 U.S.C. 1007) is amended—

(1) in subsection (b)(2)—

(A) by striking ''and'' at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by inserting after subparagraph (C) the following:

''(D) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

''(E) obtain information concerning whether such person is a person described in section 804(a)(2); and'';

(2) in subsection (b), by adding at the end the following:

''(3) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subsection, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

''(A) such person is described in section 804(a)(2),

''(B) such person has information that is necessary for the officer to conduct the officer's official duties, and

''(C) the location or apprehension of such person is within the officer's official duties.''; and

(3) in subsection (d)(1)—

(A) by striking ''or'' at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon; and

(C) by adding at the end the following:

''(D) such person has previously been convicted as described in subsection (b)(2)(D), unless the Commissioner determines that such payment would be appropriate notwithstanding such conviction; or

''(E) such person is a person described in section 804(a)(2).''.

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended—

(1) in clause (ii)—

(A) by striking ''and'' at the end of subclause (III);

(B) by redesignating subclause (IV) as subclause (VI); and

(C) by inserting after subclause (III) the following:

''(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

''(V) obtain information concerning whether such person is a person described in section 1611(e)(4)(A); and'';

(2) in clause (iii)(II)—

(A) by striking ''clause (ii)(IV)'' and inserting ''clause (ii)(VI)''; and

(B) by striking ''section 205(j)(2)(B)(i)(IV)'' and inserting ''section 205(j)(2)(B)(i)(VI)'';

(3) in clause (iii)—

(A) by striking ''or'' at the end of subclause (II);

(B) by striking the period at the end of subclause (III) and inserting a semicolon; and

(C) by adding at the end the following:

''(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

''(V) such person is a person described in section 1611(e)(4)(A).''; and

(4) by adding at the end the following:

''(xiv) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

''(I) such person is described in section 1611(e)(4)(A),

''(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

''(III) the location or apprehension of such person is within the officer's official duties.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(e) REPORT TO CONGRESS.—The Commissioner of Social Security, in consultation with the Inspector General of the Social Security Administration, shall prepare a report evaluating whether the existing procedures and reviews for the qualification (including disqualification) of representative payees are sufficient to enable the Commissioner to protect benefits from being misused by representative payees. The Commissioner shall submit the report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate no later than 270 days after the date of the enactment of this Act. The Commissioner shall include in such report any recommendations that the Commissioner considers appropriate.

SEC. 104. FEE FORFEITURE IN CASE OF BENEFIT MISUSE BY REPRESENTATIVE PAYEES.

(a) TITLE II AMENDMENTS.—Section 205(j)(4)(A)(i) of the Social Security Act (42 U.S.C. 405(j)(4)(A)(i)) is amended—

(1) in the first sentence, by striking ''A'' and inserting ''Except as provided in the next sentence, a''; and

(2) in the second sentence, by striking ''The Secretary'' and inserting the following: ''A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner''.

(b) TITLE XVI AMENDMENTS.—Section 1631(a)(2)(D)(i) of such Act (42 U.S.C. 1383(a)(2)(D)(i)) is amended—

(1) in the first sentence, by striking ''A'' and inserting ''Except as provided in the next sentence, a''; and

(2) in the second sentence, by striking ''The Commissioner'' and inserting the following: ''A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 105. LIABILITY OF REPRESENTATIVE PAYEES FOR MISUSED BENEFITS.

(a) TITLE II AMENDMENTS.—Section 205(j) of the Social Security Act (42 U.S.C. 405(j)) (as amended by sections 101 and 102) is amended further—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) in paragraphs (2)(C)(v), (3)(F), and (4)(B), by striking ''paragraph (9)'' and inserting ''paragraph (10)'';

(3) in paragraph (6)(A)(ii), by striking ''paragraph (9)'' and inserting ''paragraph (10)''; and

(4) by inserting after paragraph (6) the following:

''(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

''(B) The total of the amount certified for payment to such individual or such individual's alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

(b) TITLE VIII AMENDMENT.—Section 807 of such Act (as amended by section 102(b)(2)) is amended further by adding at the end the following:

''(l) LIABILITY FOR MISUSED AMOUNTS.—

''(1) IN GENERAL.—If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of a qualified individual's benefit that was paid to such representative payee under this section, the representative

payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of such overpayments. Subject to paragraph (2), upon recovering all or any part of such amount, the Commissioner shall make payment of an amount equal to the recovered amount to such qualified individual or such qualified individual's alternative representative payee.

''(2) LIMITATION.—The total of the amount paid to such individual or such individual's alternative representative payee under paragraph (1) and the amount paid under subsection (i) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

(c) TITLE XVI AMENDMENTS.—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) (as amended by section 102(b)(3)) is amended further—

(1) in subparagraph (G)(i)(II), by striking ''section 205(j)(9)'' and inserting ''section 205(j)(10)''; and

(2) by striking subparagraph (H) and inserting the following:

''(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this title to the representative payee for all purposes of this Act and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

''(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act.

SEC. 106. AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.

(a) TITLE II AMENDMENTS.—Section 205(j)(3) of the Social Security Act (42 U.S.C. 405(j)(3)) (as amended by sections 102(a)(1)(B) and 105(a)(2)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

''(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.''.

(b) TITLE VIII AMENDMENTS.—Section 807(h) of such Act (42 U.S.C. 1007(h)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

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

''(3) AUTHORITY TO REDIRECT DELIVERY OF BENEFIT PAYMENTS WHEN A REPRESENTATIVE PAYEE FAILS TO PROVIDE REQUIRED ACCOUNTING.—In any case in which the person described in paragraph (1) or (2) receiving benefit payments on behalf of a qualified individual fails to submit a report required by the Commissioner of Social Security under paragraph (1) or (2), the Commissioner may, after furnishing notice to such person and the qualified individual, require that such person appear in person at a United States Government facility designated by the Social Security Administration as serving the area in which the qualified individual resides in order to receive such benefit payments.''.

(c) TITLE XVI AMENDMENT.—Section 1631(a)(2)(C) of such Act (42 U.S.C. 1383(a)(2)(C)) is amended by adding at the end the following:

''(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

SEC. 107. SURVEY OF USE OF PAYMENTS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1110 of the Social Security Act (42 U.S.C. 1310) is amended by adding at the end the following:

''(c)(1) In addition to the amount otherwise appropriated in any other law to carry out subsection (a) for fiscal year 2004, up to $8,500,000 is authorized and appropriated and shall be used by the Commissioner of Social Security under this subsection for purposes of conducting a statistically valid survey to determine how payments made to individuals, organizations, and State or local government agencies that are representative payees for benefits paid under title II or XVI are being managed and used on behalf of the beneficiaries for whom such benefits are paid.

''(2) Not later than 18 months after the date of enactment of this subsection, the Commissioner of Social Security shall submit a report on the survey conducted in accordance with paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.''.

Subtitle B—Enforcement

SEC. 111. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WRONGFUL CONVERSIONS BY REPRESENTATIVE PAYEES.

(a) IN GENERAL.—Section 1129(a) of the Social Security Act (42 U.S.C. 1320a–8) is amended by adding at the end the following:

''(3) Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a representative payee pursuant to section 205(j), 807, or 1631(a)(2), a payment under title II, VIII, or XVI for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each such conversion. Such person shall also be subject to an assessment, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to violations committed after the date of the enactment of this Act.

TITLE II—PROGRAM PROTECTIONS

SEC. 201. CIVIL MONETARY PENALTY AUTHORITY WITH RESPECT TO WITHHOLDING OF MATERIAL FACTS.

(a) TREATMENT OF WITHHOLDING OF MATERIAL FACTS.—

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

(A) by striking ''who'' in the first sentence and inserting ''who—'';

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

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

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

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

shall be subject to,'';

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

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

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

(2) ADMINISTRATIVE PROCEDURE FOR IMPOSING PENALTIES.—Section 1129A(a) of such Act (42 U.S.C. 1320a–8a(a)) is amended—

(A) by striking ''who'' the first place it appears and inserting ''who—''; and

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

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

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

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

shall be subject to,''.

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

(c) CONFORMING AMENDMENTS.—

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

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

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

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations committed after the date on which the Commissioner of Social Security implements the centralized computer file described in section 202.

SEC. 202. ISSUANCE BY COMMISSIONER OF SOCIAL SECURITY OF RECEIPTS TO ACKNOWLEDGE SUBMISSION OF REPORTS OF CHANGES IN WORK OR EARNINGS STATUS OF DISABLED BENEFICIARIES.

Effective as soon as possible, but not later than 1 year after the date of the enactment of this Act, until such time as the Commissioner of Social Security implements a centralized computer file recording the date of the submission of information by a disabled beneficiary (or representative) regarding a change in the beneficiary's work or earnings status, the Commissioner shall issue a receipt to the disabled beneficiary (or representative) each time he or she submits documentation, or otherwise reports to the Commissioner, on a change in such status.

SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

(a) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by striking ''Prisoners'' and all that follows and inserting the following: ''Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees'';

(2) in paragraph (1)(A)(ii)(IV), by striking ''or'' at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

''(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed, or

''(v) is violating a condition of probation or parole imposed under Federal or State law.'';

(5) by adding at the end of paragraph (1)(B) the following:

''(iii) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

''(I) a court of competent jurisdiction has found the individual not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the individual for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

''(II) the individual was erroneously implicated in connection with the criminal offense by reason of identity fraud.

''(iv) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

''(I) the offense described in clause (iv) or underlying the imposition of the probation or parole described in clause (v) was nonviolent and not drug-related, and

''(II) in the case of an individual from whom benefits have been withheld or otherwise would be withheld pursuant to subparagraph (A)(v), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.''; and

(6) in paragraph (3), by adding at the end the following:

''(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

''(i) the beneficiary is described in clause (iv) or (v) of paragraph (1)(A); and

''(ii) the location or apprehension of the beneficiary is within the officer's official duties.''.

(b) CONFORMING AMENDMENTS TO TITLE XVI.—Section 1611(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended—

(1) in paragraph (4)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting ''(A)'' after ''(4)'';

(C) in clause (i) of subparagraph (A) (as redesignated by subparagraph (A)), by striking ''or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State'' and inserting ''or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed''; and

(D) by adding at the end the following:

''(B) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

''(i) a court of competent jurisdiction has found the person not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the person for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

''(ii) the person was erroneously implicated in connection with the criminal offense by reason of identity fraud.

''(C) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

''(i) the offense described in subparagraph (A)(i) or underlying the imposition of the probation or parole described in subparagraph (A)(ii) was nonviolent and not drug-related, and

''(ii) in the case of a person who is not considered an eligible individual or eligible spouse pursuant to subparagraph (A)(ii), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.''; and

(2) in paragraph (5), by striking subparagraphs (A) and (B) and inserting the following:

''(A) the recipient is described in clause (i) or (ii) of paragraph (4)(A); and

''(B) the location or apprehension of the recipient is within the officer's official duties.''.

(c) CONFORMING AMENDMENT.—Section 804(a)(2) of the Social Security Act (42 U.S.C. 1004(a)(2)) is amended by striking ''or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State'' and inserting ''or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of enactment of this Act.

SEC. 204. REQUIREMENTS RELATING TO OFFERS TO PROVIDE FOR A FEE, A PRODUCT OR SERVICE AVAILABLE WITHOUT CHARGE FROM THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Section 1140 of the Social Security Act (42 U.S.C. 1320b–10) is amended—

(1) in subsection (a), by adding at the end the following:

''(4)(A) No person shall offer, for a fee, to assist an individual to obtain a product or service that the person knows or should know is provided free of charge by the Social Security Administration unless, at the time the offer is made, the person provides to the individual to whom the offer is tendered a notice that—

''(i) explains that the product or service is available free of charge from the Social Security Administration, and

''(ii) complies with standards prescribed by the Commissioner of Social Security respecting the content of such notice and its placement, visibility, and legibility.

''(B) Subparagraph (A) shall not apply to any offer—

''(i) to serve as a claimant representative in connection with a claim arising under title II, title VIII, or title XVI; or

''(ii) to prepare, or assist in the preparation of, an individual's plan for achieving self-support under title XVI.''; and

(2) in the heading, by striking ''PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE'' and inserting ''PROHIBITIONS RELATING TO REFERENCES''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to offers of assistance made after the sixth month ending after the Commissioner of Social Security promulgates final regulations prescribing the standards applicable to the notice required to be provided in connection with such offer. The Commissioner shall promulgate such final regulations within 1 year after the date of the enactment of this Act.

SEC. 205. REFUSAL TO RECOGNIZE CERTAIN INDIVIDUALS AS CLAIMANT REPRESENTATIVES.

Section 206(a)(1) of the Social Security Act (42 U.S.C. 406(a)(1)) is amended by inserting after the second sentence the following: ''Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing, (A) may refuse to recognize as a representative, and may disqualify a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter,

may be considered for reinstatement only under such rules as the Commissioner may prescribe.''.

SEC. 206. CRIMINAL PENALTY FOR CORRUPT OR FORCIBLE INTERFERENCE WITH ADMINISTRATION OF SOCIAL SECURITY ACT.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1129A the following:

''ATTEMPTS TO INTERFERE WITH ADMINISTRATION OF SOCIAL SECURITY ACT

''SEC. 1129B. Whoever corruptly or by force or threats of force (including any threatening letter or communication) attempts to intimidate or impede any officer, employee, or contractor of the Social Security Administration (including any State employee of a disability determination service or any other individual designated by the Commissioner of Social Security) acting in an official capacity to carry out a duty under this Act, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this Act, shall be fined not more than $5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be fined not more than $3,000, imprisoned not more than 1 year, or both. In this subsection, the term 'threats of force' means threats of harm to the officer or employee of the United States or to a contractor of the Social Security Administration, or to a member of the family of such an officer or employee or contractor.''.

SEC. 207. USE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) IN GENERAL.—Section 1140(a)(1) of the Social Security Act (42 U.S.C. 1320b–10(a)(1)) is amended—

(1) in subparagraph (A), by inserting '' 'Centers for Medicare & Medicaid Services','' after '' 'Health Care Financing Administration','', by striking ''or 'Medicaid','' and inserting '' 'Medicaid', 'Death Benefits Update', 'Federal Benefit Information', 'Funeral Expenses', or 'Final Supplemental Plan','' and by inserting '' 'CMS','' after '' 'HCFA','';

(2) in subparagraph (B), by inserting ''Centers for Medicare & Medicaid Services,'' after ''Health Care Financing Administration,'' each place it appears; and

(3) in the matter following subparagraph (B), by striking ''the Health Care Financing Administration,'' each place it appears and inserting ''the Centers for Medicare & Medicaid Services,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to items sent after 180 days after the date of the enactment of this Act.

SEC. 208. DISQUALIFICATION FROM PAYMENT DURING TRIAL WORK PERIOD UPON CONVICTION OF FRAUDULENT CONCEALMENT OF WORK ACTIVITY.

(a) IN GENERAL.—Section 222(c) of the Social Security Act (42 U.S.C. 422(c)) is amended by adding at the end the following:

''(5) Upon conviction by a Federal court that an individual has fraudulently concealed work activity during a period of trial work from the Commissioner of Social Security by—

''(A) providing false information to the Commissioner of Social Security as to whether the individual had earnings in or for a particular period, or as to the amount thereof;

''(B) receiving disability insurance benefits under this title while engaging in work activity under another identity, including under another social security account number or a number purporting to be a social security account number; or

''(C) taking other actions to conceal work activity with an intent fraudulently to secure payment in a greater amount than is due or when no payment is authorized,

no benefit shall be payable to such individual under this title with respect to a period of disability for any month before such conviction during which the individual rendered services during the period of trial work with respect to which the fraudulently concealed work activity occurred, and amounts otherwise due under this title as restitution, penalties, assessments, fines, or other repayments shall in all cases be in addition to any amounts for which such individual is liable as overpayments by reason of such concealment.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to work activity performed after the date of the enactment of this Act.

SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.

(a) AMENDMENTS TO TITLE II.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

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

(2) by inserting after subsection (a) the following:

''(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the victims of such offense specified in paragraph (4).

''(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution to victims of such offense under this subsection.

''(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

''(4) For purposes of paragraphs (1) and (2), the victims of an offense under subsection (a) are the following:

''(A) Any individual who suffers a financial loss as a result of the defendant's violation of subsection (a).

''(B) The Commissioner of Social Security, to the extent that the defendant's violation of subsection (a) results in—

''(i) the Commissioner of Social Security making a benefit payment that should not have been made; or

''(ii) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 205(j).

''(5)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited in the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund, as appropriate.

''(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (4)(B)(ii), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss, except that such amount may be reduced by the amount of any overpayments of benefits owed under this title, title VIII, or title XVI by the individual.''; and

(3) by amending subsection (c) (as redesignated by paragraph (1)), by striking the second sentence.

(b) AMENDMENTS TO TITLE VIII.—Section 811 of the Social Security Act (42 U.S.C. 1011) is amended—

(1) by striking subsection (b) and inserting the following:

''(b) COURT ORDER FOR RESTITUTION.—

''(1) IN GENERAL.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

''(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

''(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 807(i).

''(2) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

''(3) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

''(4) RECEIPT OF RESTITUTION PAYMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

''(B) PAYMENT TO THE INDIVIDUAL.—In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title XVI by the individual.''.

(c) AMENDMENTS TO TITLE XVI.—Section 1632 of the Social Security Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

''(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

''(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

''(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) in his or her capacity as the individual's representative payee appointed pursuant to section 1631(a)(2).

''(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

''(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

''(4)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

''(B) In the case of funds paid to the Commissioner of Social Security pursuant to

paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title VIII by the individual.''; and

(3) by amending subsection (c) (as redesignated by paragraph (1)) by striking ''(1) If a person'' and all that follows through ''(2)''.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of enactment of this Act.

SEC. 210. AUTHORITY FOR CROSS-PROGRAM RECOVERY OF BENEFIT OVERPAYMENTS.

(a) IN GENERAL.—Section 1147 of the Social Security Act (42 U.S.C. 1320b–17) is amended to read as follows:

''CROSS-PROGRAM RECOVERY OF OVERPAYMENTS FROM BENEFITS

''(a) IN GENERAL.—Subject to subsection (b), whenever the Commissioner of Social Security determines that more than the correct amount of any payment has been made to a person under a program described in subsection (e), the Commissioner of Social Security may recover the amount incorrectly paid by decreasing any amount which is payable to such person under any other program specified in that subsection.

''(b) LIMITATION APPLICABLE TO CURRENT BENEFITS.—

''(1) IN GENERAL.—In carrying out subsection (a), the Commissioner of Social Security may not decrease the monthly amount payable to an individual under a program described in subsection (e) that is paid when regularly due—

''(A) in the case of benefits under title II or VIII, by more than 10 percent of the amount of the benefit payable to the person for that month under such title; and

''(B) in the case of benefits under title XVI, by an amount greater than the lesser of—

''(i) the amount of the benefit payable to the person for that month; or

''(ii) an amount equal to 10 percent of the person's income for that month (including such monthly benefit but excluding payments under title II when recovery is also made from title II payments and excluding income excluded pursuant to section 1612(b)).

''(2) EXCEPTION.—Paragraph (1) shall not apply if—

''(A) the person or the spouse of the person was involved in willful misrepresentation or concealment of material information in connection with the amount incorrectly paid; or

''(B) the person so requests.

''(c) NO EFFECT ON ELIGIBILITY OR BENEFIT AMOUNT UNDER TITLE VIII OR XVI.—In any case in which the Commissioner of Social Security takes action in accordance with subsection (a) to recover an amount incorrectly paid to any person, neither that person, nor (with respect to the program described in subsection (e)(3)) any individual whose eligibility for benefits under such program or whose amount of such benefits, is determined by considering any part of that person's income, shall, as a result of such action—

''(1) become eligible for benefits under the program described in paragraph (2) or (3) of subsection (e); or

''(2) if such person or individual is otherwise so eligible, become eligible for increased benefits under such program.

''(d) INAPPLICABILITY OF PROHIBITION AGAINST ASSESSMENT AND LEGAL PROCESS.—Section 207 shall not apply to actions taken under the provisions of this section to decrease amounts payable under titles II and XVI.

''(e) PROGRAMS DESCRIBED.—The programs described in this subsection are the following:

''(1) The old-age, survivors, and disability insurance benefits program under title II.

''(2) The special benefits for certain World War II veterans program under title VIII.

''(3) The supplemental security income benefits program under title XVI (including, for purposes of this section, State supplementary payments paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 204(g) of the Social Security Act (42 U.S.C. 404(g)) is amended to read as follows:

''(g) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.''.

(2) Section 808 of the Social Security Act (42 U.S.C. 1008) is amended—

(A) in subsection (a)(1)—

(i) by striking subparagraph (B);

(ii) in the matter preceding subparagraph (A), by striking ''any payment'' and all that follows through ''under this title'' and inserting ''any payment under this title''; and

(iii) by striking ''; or'' and inserting a period;

(B) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(C) by adding at the end the following:

''(e) CROSS-PROGRAM RECOVERY OF OVERPAYMENTS.—For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.''.

(3) Section 1147A of the Social Security Act (42 U.S.C. 1320b–18) is repealed.

(4) Section 1631(b) of the Social Security Act (42 U.S.C. 1383(b)) is amended—

(A) in paragraph (1)(B)—

(i) by striking ''excluding any other'' and inserting ''excluding payments under title II when recovery is made from title II payments pursuant to section 1147 and excluding''; and

(ii) by striking ''50 percent of''; and

(B) by striking paragraph (6) and inserting the following:

''(6) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1147.''.

(c) EFFECTIVE DATE.—The amendments and repeal made by this section shall take effect on the date of enactment of this Act, and shall be effective with respect to overpayments under titles II, VIII, and XVI of the Social Security Act that are outstanding on or after such date.

SEC. 211. PROHIBITION ON PAYMENT OF TITLE II BENEFITS TO PERSONS NOT AUTHORIZED TO WORK IN THE UNITED STATES.

(a) FULLY INSURED AND CURRENTLY INSURED INDIVIDUALS.—Section 214 (42 U.S.C. 414) is amended—

(1) in subsection (a), by inserting before the period at the end the following: '', and who satisfies the criterion specified in subsection (c)'';

(2) in subsection (b), by inserting before the period at the end the following: '', and who satisfies the criterion specified in subsection (c)''; and

(3) by adding at the end the following:

''(c) For purposes of subsections (a) and (b), the criterion specified in this subsection is that the individual, if not a United States citizen or national—

''(1) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

''(2) at the time any such quarters of coverage are earned—

''(A) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

''(B) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

''(C) the business engaged in or service as a crewman performed is within the scope of the terms of such individual's admission to the United States.''.

(b) DISABILITY BENEFITS.—Section 223(a)(1) of the Social Security Act (42 U.S.C. 423(a)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B), the following:

''(C) if not a United States citizen or national—

''(i) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

''(ii) at the time any quarters of coverage are earned—

''(I) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

''(II) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

''(III) the business engaged in or service as a crewman performed is within the scope of the terms of such individual's admission to the United States.''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to benefit applications based on social security account numbers issued on or after January 1, 2004.

TITLE III—ATTORNEY REPRESENTATIVE FEE PAYMENT SYSTEM IMPROVEMENTS

SEC. 301. CAP ON ATTORNEY ASSESSMENTS.

(a) IN GENERAL.—Section 206(d)(2)(A) of the Social Security Act (42 U.S.C. 406(d)(2)(A)) is amended—

(1) by inserting '', except that the maximum amount of the assessment may not exceed the greater of $75 or the adjusted amount as provided pursuant to the following two sentences'' after ''subparagraph (B)''; and

(2) by adding at the end the following: ''In the case of any calendar year beginning after the amendments made by section 301 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect

to fees for representation of claimants which are first required to be certified or paid under section 206 of the Social Security Act on or after the first day of the first month that begins after 180 days after the date of the enactment of this Act.

SEC. 302. TEMPORARY EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.

(a) IN GENERAL.—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking ''section 206(a)'' and inserting ''section 206'';

(B) by striking ''(other than paragraph (4) thereof)'' and inserting ''(other than subsections (a)(4) and (d) thereof)''; and

(C) by striking ''paragraph (2) thereof'' and inserting ''such section'';

(2) in subparagraph (A)(i)—

(A) by striking ''in subparagraphs (A)(ii)(I) and (C)(i),'' and inserting ''in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)''; and

(B) by striking ''and'' at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

''(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase 'paragraph (7)(A) or (8)(A) of section 1631(a) or the requirements of due process of law' for the phrase 'subsection (g) or (h) of section 223';

''(iii) by substituting, in subsection (a)(2)(C)(i), the phrase 'under title II' for the phrase 'under title XVI';

''(iv) by substituting, in subsection (b)(1)(A), the phrase 'pay the amount of such fee' for the phrase 'certify the amount of such fee for payment' and by striking, in subsection (b)(1)(A), the phrase 'or certified for payment'; and

''(v) by substituting, in subsection (b)(1)(B)(ii), the phrase 'deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)' for the phrase 'determined before any applicable reduction under section 1127(a))'.''; and

(4) by redesignating subparagraph (B) as subparagraph (D) and inserting after subparagraph (A) the following:

''(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

''(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

''(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

''(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

''(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed $75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of $75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of $1 shall be rounded to the next lowest multiple of $1, but in no case less than $75.

''(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

''(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

''(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

''(v) Assessments on attorneys collected under this subparagraph shall be deposited as miscellaneous receipts in the general fund of the Treasury.

''(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.''.

(b) CONFORMING AMENDMENTS.—Section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended—

(1) in paragraph (2)(F)(i)(II), by inserting ''and payment of attorney fees under subsection (d)(2)(B)'' after ''subsection (g)''; and

(2) in paragraph (10)(A)—

(A) in the matter preceding clause (i), by inserting ''and payment of attorney fees under subsection (d)(2)(B)'' after ''subsection (g)''; and

(B) in the matter following clause (ii), by inserting ''and payment of attorney fees under subsection (d)(2)(B)'' after ''State''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be paid under section 1631(d)(2) of the Social Security Act on or after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act.

(2) SUNSET.—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date described in paragraph (1).

SEC. 303. NATIONWIDE DEMONSTRATION PROJECT PROVIDING FOR EXTENSION OF FEE WITHHOLDING PROCEDURES TO NON-ATTORNEY REPRESENTATIVES.

(a) IN GENERAL.—The Commissioner of Social Security (hereafter in this section referred to as the ''Commissioner'') shall develop and carry out a nationwide demonstration project under this section with respect to agents and other persons, other than attorneys, who represent claimants under titles II and XVI of the Social Security Act before the Commissioner. The demonstration project shall be designed to determine the potential results of extending to such representatives the fee withholding procedures and assessment procedures that apply under sections 206 and section 1631(d)(2) of such Act to attorneys seeking direct payment out of past due benefits under such titles and shall include an analysis of the effect of such extension on claimants and program administration.

(b) STANDARDS FOR INCLUSION IN DEMONSTRATION PROJECT.—Fee-withholding procedures may be extended under the demonstration project carried out pursuant to subsection (a) to any non-attorney representative only if such representative meets at least the following prerequisites:

(1) The representative has been awarded a bachelor's degree from an accredited institution of higher education, or has been determined by the Commissioner to have equivalent qualifications derived from training and work experience.

(2) The representative has passed an examination, written and administered by the Commissioner, which tests knowledge of the relevant provisions of the Social Security Act and the most recent developments in agency and court decisions affecting titles II and XVI of such Act.

(3) The representative has secured professional liability insurance, or equivalent insurance, which the Commissioner has determined to be adequate to protect claimants in the event of malpractice by the representative.

(4) The representative has undergone a criminal background check to ensure the representative's fitness to practice before the Commissioner.

(5) The representative demonstrates ongoing completion of qualified courses of continuing education, including education regarding ethics and professional conduct, which are designed to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under titles II and XVI of such Act. Such continuing education, and the instructors providing such education, shall meet such standards as the Commissioner may prescribe.

(c) ASSESSMENT OF FEES.—

(1) IN GENERAL.—The Commissioner may assess representatives reasonable fees to cover the cost to the Social Security Administration of administering the prerequisites described in subsection (b).

(2) DISPOSITION OF FEES.—Fees collected under paragraph (1) shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or deposited as miscellaneous receipts in the general fund of the Treasury, based on such allocations as the Commissioner of Social Security determines appropriate.

(3) AUTHORIZATION OF APPROPRIATIONS.—The fees authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended for administering the prerequisites described in subsection (b).

(d) NOTICE TO CONGRESS AND APPLICABILITY OF FEE WITHHOLDING PROCEDURES.—Not later than 1 year after the date of enactment of this Act, the Commissioner shall complete such actions as are necessary to fully implement the requirements for full operation of

the demonstration project and shall submit to each House of Congress a written notice of the completion of such actions. The applicability under this section to non-attorney representatives of the fee withholding procedures and assessment procedures under sections 206 and 1631(d)(2) of the Social Security Act shall be effective with respect to fees for representation of claimants in the case of claims for benefits with respect to which the agreement for representation is entered into by such non-attorney representatives during the period beginning with the date of the submission of such notice by the Commissioner to Congress and ending with the termination date of the demonstration project.

(e) REPORTS BY THE COMMISSIONER; TERMINATION.—

(1) INTERIM REPORTS.—On or before the date which is 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate an annual interim report on the progress of the demonstration project carried out under this section, together with any related data and materials that the Commissioner may consider appropriate.

(2) TERMINATION DATE AND FINAL REPORT.—The termination date of the demonstration project under this section is the date which is 5 years after the date of the submission of the notice by the Commissioner to each House of Congress pursuant to subsection (d). The authority under the preceding provisions of this section shall not apply in the case of claims for benefits with respect to which the agreement for representation is entered into after the termination date. Not later than 90 days after the termination date, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to the demonstration project.

SEC. 304. GAO STUDY REGARDING THE FEE PAYMENT PROCESS FOR CLAIMANT REPRESENTATIVES.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall study and evaluate the appointment and payment of claimant representatives appearing before the Commissioner of Social Security in connection with benefit claims under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) in each of the following groups:

(A) Attorney claimant representatives who elect fee withholding under section 206 or 1631(d)(2) of such Act.

(B) Attorney claimant representatives who do not elect such fee withholding.

(C) Non-attorney claimant representatives who are eligible for, and elect, such fee withholding.

(D) Non-attorney claimant representatives who are eligible for, but do not elect, such fee withholding.

(E) Non-attorney claimant representatives who are not eligible for such fee withholding.

(2) MATTERS TO BE STUDIED.—In conducting the study under this subsection, the Comptroller General shall, for each of group of claimant representatives described in paragraph (1)—

(A) conduct a survey of the relevant characteristics of such claimant representatives including—

(i) qualifications and experience;

(ii) the type of employment of such claimant representatives, such as with an advocacy group, State or local government, or insurance or other company;

(iii) geographical distribution between urban and rural areas;

(iv) the nature of claimants' cases, such as whether the cases are for disability insurance benefits only, supplemental security income benefits only, or concurrent benefits;

(v) the relationship of such claimant representatives to claimants, such as whether the claimant is a friend, family member, or client of the claimant representative; and

(vi) the amount of compensation (if any) paid to the claimant representatives and the method of payment of such compensation;

(B) assess the quality and effectiveness of the services provided by such claimant representatives, including a comparison of claimant satisfaction or complaints and benefit outcomes, adjusted for differences in claimant representatives' caseload, claimants' diagnostic group, level of decision, and other relevant factors;

(C) assess the interactions between fee withholding under sections 206 and 1631(d)(2) of such Act (including under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act), the windfall offset under section 1127 of such Act, and interim assistance reimbursements under section 1631(g) of such Act;

(D) assess the potential results of making permanent the fee withholding procedures under sections 206 and 1631(d)(2) of such Act under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act with respect to program administration and claimant outcomes, and assess whether the rules and procedures employed by the Commissioner of Social Security to evaluate the qualifications and performance of claimant representatives should be revised prior to making such procedures permanent; and

(E) make such recommendations for administrative and legislative changes as the Comptroller General of the United States considers necessary or appropriate.

(3) CONSULTATION REQUIRED.—The Comptroller General of the United States shall consult with beneficiaries under title II of such Act, beneficiaries under title XVI of such Act, claimant representatives of beneficiaries under such titles, and other interested parties, in conducting the study and evaluation required under paragraph (1).

(b) REPORT.—Not later than 3 years after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act, the Comptroller General of the United States shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of the study and evaluation conducted pursuant to subsection (a).

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Subtitle A—Amendments Relating to the Ticket to Work and Work Incentives Improvement Act of 1999

SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking ''conducted under subsection (a)'' and inserting ''initiated under subsection (a) on or before December 17, 2005''; and

(2) in subsection (d)(2), by striking the first sentence and inserting the following: ''The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2005.''.

SEC. 402. EXPANSION OF WAIVER AUTHORITY AVAILABLE IN CONNECTION WITH DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(c) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended by striking ''(42 U.S.C. 401 et seq.),'' and inserting ''(42 U.S.C. 401 et seq.) and the requirements of section 1148 of such Act (42 U.S.C. 1320b–19) as they relate to the program established under title II of such Act,''.

SEC. 403. FUNDING OF DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

Section 302(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 434 note) is amended to read as follows:

''(f) EXPENDITURES.—Administrative expenses for demonstration projects under this section shall be paid from funds available for the administration of title II or XVIII of the Social Security Act, as appropriate. Benefits payable to or on behalf of individuals by reason of participation in projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, from funds available for benefits under such title II or XVIII.''.

SEC. 404. AVAILABILITY OF FEDERAL AND STATE WORK INCENTIVE SERVICES TO ADDITIONAL INDIVIDUALS.

(a) FEDERAL WORK INCENTIVES OUTREACH PROGRAM.—

(1) IN GENERAL.—Section 1149(c)(2) of the Social Security Act (42 U.S.C. 1320b–20(c)(2)) is amended to read as follows:

''(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

''(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

''(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93–66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93–66);

''(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

''(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to grants, cooperative agreements, or contracts entered into on or after the date of the enactment of this Act.

(b) STATE GRANTS FOR WORK INCENTIVES ASSISTANCE.—

(1) DEFINITION OF DISABLED BENEFICIARY.—Section 1150(g)(2) of such Act (42 U.S.C. 1320b–21(g)(2)) is amended to read as follows:

''(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means an individual—

''(A) who is a disabled beneficiary as defined in section 1148(k)(2) of this Act;

''(B) who is receiving a cash payment described in section 1616(a) of this Act or a supplementary payment described in section 212(a)(3) of Public Law 93–66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under

section 1616(a) of this Act or under section 212(b) of Public Law 93–66);

''(C) who, pursuant to section 1619(b) of this Act, is considered to be receiving benefits under title XVI of this Act; or

''(D) who is entitled to benefits under part A of title XVIII of this Act by reason of the penultimate sentence of section 226(b) of this Act.''.

(2) ADVOCACY OR OTHER SERVICES NEEDED TO MAINTAIN GAINFUL EMPLOYMENT.—Section 1150(b)(2) of such Act (42 U.S.C. 1320b–21(b)(2)) is amended by striking ''secure or regain'' and inserting ''secure, maintain, or regain''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to payments provided after the date of the enactment of this Act.

SEC. 405. TECHNICAL AMENDMENT CLARIFYING TREATMENT FOR CERTAIN PURPOSES OF INDIVIDUAL WORK PLANS UNDER THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Section 1148(g)(1) of the Social Security Act (42 U.S.C. 1320b–19(g)(1)) is amended by adding at the end, after and below subparagraph (E), the following:

''An individual work plan established pursuant to this subsection shall be treated, for purposes of section 51(d)(6)(B)(i) of the Internal Revenue Code of 1986, as an individualized written plan for employment under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 505 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106–170; 113 Stat. 1921).

SEC. 406. GAO STUDY REGARDING THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) GAO REPORT.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to Congress regarding the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act (42 U.S.C. 1320b–19) that—

(1) examines the annual and interim reports issued by States, the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (42 U.S.C. 1320b–19 note), and the Commissioner of Social Security regarding such program;

(2) assesses the effectiveness of the activities carried out under such program; and

(3) recommends such legislative or administrative changes as the Comptroller General determines are appropriate to improve the effectiveness of such program.

SEC. 407. REAUTHORIZATION OF APPROPRIATIONS FOR CERTAIN WORK INCENTIVES PROGRAMS.

(a) BENEFITS PLANNING, ASSISTANCE, AND OUTREACH.—Section 1149(d) of the Social Security Act (42 U.S.C. 1320b–20(d)) is amended by striking ''2004'' and inserting ''2009''.

(b) PROTECTION AND ADVOCACY.—Section 1150(h) of the Social Security Act (42 U.S.C. 1320b–21(h)) is amended by striking ''2004'' and inserting ''2009''.

Subtitle B—Miscellaneous Amendments

SEC. 411. ELIMINATION OF TRANSCRIPT REQUIREMENT IN REMAND CASES FULLY FAVORABLE TO THE CLAIMANT.

(a) IN GENERAL.—Section 205(g) of the Social Security Act (42 U.S.C. 405(g)) is amended in the sixth sentence by striking ''and a transcript'' and inserting ''and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act.

SEC. 412. NONPAYMENT OF BENEFITS UPON REMOVAL FROM THE UNITED STATES.

(a) IN GENERAL.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) is amended—

(1) in paragraph (1), by striking ''section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof) of the Immigration and Nationality Act'' and inserting ''section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act'';

(2) in paragraph (2), by striking ''section 241(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) or (1)(E) thereof)'' and inserting ''section 237(a) of the Immigration and Nationality Act (other than under paragraph (1)(C) of such section) or under section 212(a)(6)(A) of such Act'';

(3) in paragraph (3), by striking ''paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19)'' and inserting ''paragraph (4)(D) of section 241(a) of the Immigration and Nationality Act (relating to participating in Nazi persecutions or genocide) shall be considered to have been deported under such paragraph (4)(D)''; and

(4) in paragraph (3) (as amended by paragraph (3) of this subsection), by striking ''241(a)'' and inserting ''237(a)''.

(b) TECHNICAL CORRECTIONS.—

(1) TERMINOLOGY REGARDING REMOVAL FROM THE UNITED STATES.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a)) is amended further—

(A) by striking ''deportation'' each place it appears and inserting ''removal'';

(B) by striking ''deported'' each place it appears and inserting ''removed''; and

(C) in the heading, by striking ''Deportation'' and inserting ''Removal''.

(2) REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.—Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) (as amended by subsection (a) and paragraph (1)) is amended further by inserting ''or the Secretary of Homeland Security'' after ''the Attorney General'' each place it appears.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by—

(A) subsection (a)(1) shall apply to individuals with respect to whom the Commissioner of Social Security receives a removal notice after the date of the enactment of this Act;

(B) subsection (a)(2) shall apply with respect to notifications of removals received by the Commissioner of Social Security after the date of enactment of this Act; and

(C) subsection (a)(3) shall be effective as if enacted on March 1, 1991.

(2) SUBSEQUENT CORRECTION OF CROSS-REFERENCE AND TERMINOLOGY.—The amendments made by subsections (a)(4) and (b)(1) shall be effective as if enacted on April 1, 1997.

(3) REFERENCES TO THE SECRETARY OF HOMELAND SECURITY.—The amendment made by subsection (b)(2) shall be effective as if enacted on March 1, 2003.

SEC. 413. REINSTATEMENT OF CERTAIN REPORTING REQUIREMENTS.

Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) shall not apply to any report required to be submitted under any of the following provisions of law:

(1)(A) Section 201(c)(2) of the Social Security Act (42 U.S.C. 401(c)(2)).

(B) Section 1817(b)(2) of the Social Security Act (42 U.S.C. 1395i(b)(2)).

(C) Section 1841(b)(2) of the Social Security Act (42 U.S.C. 1395t(b)(2)).

(2)(A) Section 221(c)(3)(C) of the Social Security Act (42 U.S.C. 421(c)(3)(C)).

(B) Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)).

SEC. 414. CLARIFICATION OF DEFINITIONS REGARDING CERTAIN SURVIVOR BENEFITS.

(a) WIDOWS.—Section 216(c) of the Social Security Act (42 U.S.C. 416(c)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting ''except as provided in paragraph (2),'' before ''she was married'';

(4) by inserting ''(1)'' after ''(c)''; and

(5) by adding at the end the following:

''(2) The requirements of paragraph (1)(E) in connection with the surviving wife of an individual shall be treated as satisfied if—

''(A) the individual had been married prior to the individual's marriage to the surviving wife,

''(B) the prior wife was institutionalized during the individual's marriage to the prior wife due to mental incompetence or similar incapacity,

''(C) during the period of the prior wife's institutionalization, the individual would have divorced the prior wife and married the surviving wife, but the individual did not do so because such divorce would have been unlawful, by reason of the prior wife's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

''(D) the prior wife continued to remain institutionalized up to the time of her death, and

''(E) the individual married the surviving wife within 60 days after the prior wife's death.''.

(b) WIDOWERS.—Section 216(g) of such Act (42 U.S.C. 416(g)) is amended—

(1) by redesignating subclauses (A) through (C) of clause (6) as subclauses (i) through (iii), respectively;

(2) by redesignating clauses (1) through (6) as clauses (A) through (F), respectively;

(3) in clause (E) (as redesignated), by inserting ''except as provided in paragraph (2),'' before ''he was married'';

(4) by inserting ''(1)'' after ''(g)''; and

(5) by adding at the end the following:

''(2) The requirements of paragraph (1)(E) in connection with the surviving husband of an individual shall be treated as satisfied if—

''(A) the individual had been married prior to the individual's marriage to the surviving husband,

''(B) the prior husband was institutionalized during the individual's marriage to the prior husband due to mental incompetence or similar incapacity,

''(C) during the period of the prior husband's institutionalization, the individual would have divorced the prior husband and married the surviving husband, but the individual did not do so because such divorce would have been unlawful, by reason of the prior husband's institutionalization, under the laws of the State in which the individual was domiciled at the time (as determined based on evidence satisfactory to the Commissioner of Social Security),

''(D) the prior husband continued to remain institutionalized up to the time of his death, and

''(E) the individual married the surviving husband within 60 days after the prior husband's death.''.

(c) CONFORMING AMENDMENT.—Section 216(k) of such Act (42 U.S.C. 416(k)) is amended by striking ''clause (5) of subsection (c) or clause (5) of subsection (g)'' and inserting ''clause (E) of subsection (c)(1) or clause (E) of subsection (g)(1)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to applications for benefits under title II of the Social Security Act filed during months ending after the date of the enactment of this Act.

SEC. 415. CLARIFICATION RESPECTING THE FICA AND SECA TAX EXEMPTIONS FOR AN INDIVIDUAL WHOSE EARNINGS ARE SUBJECT TO THE LAWS OF A TOTALIZATION AGREEMENT PARTNER.

Sections 1401(c), 3101(c), and 3111(c) of the Internal Revenue Code of 1986 are each amended by striking ''to taxes or contributions for similar purposes under'' and inserting ''exclusively to the laws applicable to''.

SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY AND LOUISIANA.

(a) IN GENERAL.—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting ''Kentucky, Louisiana,'' after ''Illinois,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2003.

SEC. 417. COMPENSATION FOR THE SOCIAL SECURITY ADVISORY BOARD.

(a) IN GENERAL.—Subsection (f) of section 703 of the Social Security Act (42 U.S.C. 903(f)) is amended to read as follows:

''Compensation, Expenses, and Per Diem

''(f) A member of the Board shall, for each day (including traveltime) during which the member is attending meetings or conferences of the Board or otherwise engaged in the business of the Board, be compensated at the daily rate of basic pay for level IV of the Executive Schedule. While serving on business of the Board away from their homes or regular places of business, members 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 employed intermittently.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective as of January 1, 2003.

SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.

(a) IN GENERAL.—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by adding at the end the following:

''(5)(A) The amount of a monthly insurance benefit of any individual for each month under subsection (b), (c), (e), (f), or (g) (as determined after application of the provisions of subsection (q) and the preceding provisions of this subsection) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to such individual for such month which is based upon such individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2)) if, during any portion of the last 60 months of such service ending with the last day such individual was employed by such entity—

''(i) such service did not constitute 'employment' as defined in section 210, or

''(ii) such service was being performed while in the service of the Federal Government, and constituted 'employment' as so defined solely by reason of—

''(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

''(II) an election to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of $0.10, shall be rounded to the next higher multiple of $0.10.

''(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).

''(ii) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted 'employment' as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which such individual is eligible for benefits under this subsection and has made a valid application for such benefits.

''(C) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Commissioner of Social Security) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term 'periodic benefit' includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.''.

(b) CONFORMING AMENDMENTS.—

(1) WIFE'S INSURANCE BENEFITS.—Section 202(b) of the Social Security Act (42 U.S.C. 402(b)) is amended—

(A) in paragraph (2), by striking ''subsection (q) and paragraph (4) of this subsection'' and inserting ''subsections (k)(5) and (q)''; and

(B) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) HUSBAND'S INSURANCE BENEFITS.—Section 202(c) of the Social Security Act (42 U.S.C. 402(c)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(B) in paragraph (2) as so redesignated, by striking ''subsection (q) and paragraph (2) of this subsection'' and inserting ''subsections (k)(5) and (q)''.

(3) WIDOW'S INSURANCE BENEFITS.—Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

(A) in paragraph (2)(A), by striking ''subsection (q), paragraph (7) of this subsection,'' and inserting ''subsection (k)(5), subsection (q),''; and

(B) by striking paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(4) WIDOWER'S INSURANCE BENEFITS.—

(A) IN GENERAL.—Section 202(f) of the Social Security Act (42 U.S.C. 402(f)) is amended—

(i) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively; and

(ii) in paragraph (2) as so redesignated, by striking ''subsection (q), paragraph (2) of this subsection,'' and inserting ''subsection (k)(5), subsection (q),''.

(B) CONFORMING AMENDMENTS.—

(i) Section 202(f)(1)(B) of the Social Security Act (42 U.S.C. 402(f)(1)(B)) is amended by striking ''paragraph (5)'' and inserting ''paragraph (4)''.

(ii) Section 202(f)(1)(F) of the Social Security Act (42 U.S.C. 402(f)(1)(F)) is amended by striking ''paragraph (6)'' and ''paragraph (5)'' (in clauses (i) and (ii)) and inserting ''paragraph (5)'' and ''paragraph (4)'', respectively.

(iii) Section 202(f)(5)(A)(ii) of the Social Security Act (as redesignated by subparagraph (A)(i)) is amended by striking ''paragraph (5)'' and inserting ''paragraph (4)''.

(iv) Section 202(k)(2)(B) of the Social Security Act (42 U.S.C. 402(k)(2)(B)) is amended by striking ''or (f)(4)'' each place it appears and inserting ''or (f)(3)''.

(v) Section 202(k)(3)(A) of the Social Security Act (42 U.S.C. 402(k)(3)(A)) is amended by striking ''or (f)(3)'' and inserting ''or (f)(2)''.

(vi) Section 202(k)(3)(B) of the Social Security Act (42 U.S.C. 402(k)(3)(B)) is amended by striking ''or (f)(4)'' and inserting ''or (f)(3)''.

(vii) Section 226(e)(1)(A)(i) of the Social Security Act (42 U.S.C. 426(e)(1)(A)(i)) is amended by striking ''and 202(f)(5)'' and inserting ''and 202(f)(4)''.

(5) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g) of the Social Security Act (42 U.S.C. 402(g)) is amended—

(A) in paragraph (2), by striking ''Except as provided in paragraph (4) of this subsection, such'' and inserting ''Such''; and

(B) by striking paragraph (4).

(c) EFFECTIVE DATE AND TRANSITIONAL RULE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(k)(5)(A) of the Social Security Act (in the matter preceding clause (i) thereof) if the last day of such service occurs before July 1, 2004.

(2) TRANSITIONAL RULE.—In the case of any individual whose last day of service described in subparagraph (A) of section 202(k)(5) of the Social Security Act (as added by subsection (a) of this section) occurs within 5 years after the date of enactment of this Act—

(A) the 60-month period described in such subparagraph (A) shall be reduced (but not to less than 1 month) by the number of months of such service (in the aggregate and without regard to whether such months of service were continuous) which—

(i) were performed by the individual under the same retirement system on or before the date of enactment of this Act, and

(ii) constituted ''employment'' as defined in section 210 of the Social Security Act; and

(B) months of service necessary to fulfill the 60-month period as reduced by subparagraph (A) of this paragraph must be performed after the date of enactment of this Act.

SEC. 419. DISCLOSURE TO WORKERS OF EFFECT OF WINDFALL ELIMINATION PROVISION AND GOVERNMENT PENSION OFFSET PROVISION.

(a) INCLUSION OF NONCOVERED EMPLOYEES AS ELIGIBLE INDIVIDUALS ENTITLED TO SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(3) of the Social Security Act (42 U.S.C. 1320b–13(a)(3)) is amended—

(1) by striking ''who'' after ''an individual'' and inserting ''who'' before ''has'' in each of subparagraphs (A) and (B);

(2) by inserting ''(i) who'' after ''(C)''; and

(3) by inserting before the period the following: '', or (ii) with respect to whom the Commissioner has information that the pattern of

wages or self-employment income indicate a likelihood of noncovered employment''.

(b) EXPLANATION IN SOCIAL SECURITY ACCOUNT STATEMENTS OF POSSIBLE EFFECTS OF PERIODIC BENEFITS UNDER STATE AND LOCAL RETIREMENT SYSTEMS ON SOCIAL SECURITY BENEFITS.—Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(E) in the case of an eligible individual described in paragraph (3)(C)(ii), an explanation, in language calculated to be understood by the average eligible individual, of the operation of the provisions under sections 202(k)(5) and 215(a)(7) and an explanation of the maximum potential effects of such provisions on the eligible individual's monthly retirement, survivor, and auxiliary benefits.''.

(c) TRUTH IN RETIREMENT DISCLOSURE TO GOVERNMENTAL EMPLOYEES OF EFFECT OF NONCOVERED EMPLOYMENT ON BENEFITS UNDER TITLE II.—Section 1143 of the Social Security Act (42 U.S..C. 1320b–13) is amended further by adding at the end the following:

''Disclosure to Governmental Employees of Effect of Noncovered Employment

''(d)(1) In the case of any individual commencing employment on or after January 1, 2005, in any agency or instrumentality of any State (or political subdivision thereof, as defined in section 218(b)(2)) in a position in which service performed by the individual does not constitute 'employment' as defined in section 210, the head of the agency or instrumentality shall ensure that, prior to the date of the commencement of the individual's employment in the position, the individual is provided a written notice setting forth an explanation, in language calculated to be understood by the average individual, of the maximum effect on computations of primary insurance amounts (under section 215(a)(7)) and the effect on benefit amounts (under section 202(k)(5)) of monthly periodic payments or benefits payable based on earnings derived in such service. Such notice shall be in a form which shall be prescribed by the Commissioner of Social Security.

''(2) The written notice provided to an individual pursuant to paragraph (1) shall include a form which, upon completion and signature by the individual, would constitute certification by the individual of receipt of the notice. The agency or instrumentality providing the notice to the individual shall require that the form be completed and signed by the individual and submitted to the agency or instrumentality and to the pension, annuity, retirement, or similar fund or system established by the governmental entity involved responsible for paying the monthly periodic payments or benefits, before commencement of service with the agency or instrumentality.''.

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) of this section shall apply with respect to social security account statements issued on or after January 1, 2007.

SEC. 420. POST-1956 MILITARY WAGE CREDITS.

(a) PAYMENT TO THE SOCIAL SECURITY TRUST FUNDS IN SATISFACTION OF OUTSTANDING OBLIGATIONS.—Section 201 of the Social Security Act (42 U.S.C. 401) is amended by adding at the end the following:

''(n) Not later than July 1, 2004, the Secretary of the Treasury shall transfer, from amounts in the general fund of the Treasury that are not otherwise appropriated—

''(1) $624,971,854 to the Federal Old-Age and Survivors Insurance Trust Fund;

''(2) $105,379,671 to the Federal Disability Insurance Trust Fund; and

''(3) $173,306,134 to the Federal Hospital Insurance Trust Fund.

Amounts transferred in accordance with this subsection shall be in satisfaction of certain outstanding obligations for deemed wage credits for 2000 and 2001.''.

(b) CONFORMING AMENDMENTS.—

(1) REPEAL OF AUTHORITY FOR ANNUAL APPROPRIATIONS AND RELATED ADJUSTMENTS TO COMPENSATE THE SOCIAL SECURITY TRUST FUND FOR MILITARY WAGE CREDITS.—Section 229 of the Social Security Act (42 U.S.C. 429) is amended—

(A) by striking ''(a)''; and

(B) by striking subsection (b).

(2) AMENDMENT TO REFLECT THE TERMINATION OF WAGE CREDITS EFFECTIVE AFTER CALENDAR YEAR 2001 BY SECTION 8134 OF PUBLIC LAW 107–117.—Section 229(a)(2) of the Social Security Act (42 U.S.C. 429(a)(2)), as amended by paragraph (1), is amended by inserting ''and before 2002'' after ''1977''.

SEC. 420A. ELIMINATION OF DISINCENTIVE TO RETURN-TO-WORK FOR CHILDHOOD DISABILITY BENEFICIARIES.

(a) IN GENERAL.—Section 202(d)(6)(B) of the Social Security Act (42 U.S.C. 402(d)(6)(B)) is amended—

(1) by inserting ''(i)'' after ''began''; and

(2) by adding after ''such disability,'' the following: ''or (ii) after the close of the 84th month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under such disability due to performance of substantial gainful activity,''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to benefits payable for months beginning with the 7th month that begins after the date of enactment of this Act.

Subtitle C—Technical Amendments

SEC. 421. TECHNICAL CORRECTION RELATING TO RESPONSIBLE AGENCY HEAD.

Section 1143 of the Social Security Act (42 U.S.C. 1320b–13) is amended—

(1) by striking ''Secretary'' the first place it appears and inserting ''Commissioner of Social Security''; and

(2) by striking ''Secretary'' each subsequent place it appears and inserting ''Commissioner''.

SEC. 422. TECHNICAL CORRECTION RELATING TO RETIREMENT BENEFITS OF MINISTERS.

(a) IN GENERAL.—Section 211(a)(7) of the Social Security Act (42 U.S.C. 411(a)(7)) is amended by inserting '', but shall not include in any such net earnings from self-employment the rental value of any parsonage or any parsonage allowance (whether or not excluded under section 107 of the Internal Revenue Code of 1986) provided after the individual retires, or any other retirement benefit received by such individual from a church plan (as defined in section 414(e) of such Code) after the individual retires'' before the semicolon.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning before, on, or after December 31, 1994.

SEC. 423. TECHNICAL CORRECTIONS RELATING TO DOMESTIC EMPLOYMENT.

(a) AMENDMENT TO INTERNAL REVENUE CODE.—Section 3121(a)(7)(B) of the Internal Revenue Code of 1986 is amended by striking ''described in subsection (g)(5)'' and inserting ''on a farm operated for profit''.

(b) AMENDMENT TO SOCIAL SECURITY ACT.—Section 209(a)(6)(B) of the Social Security Act (42 U.S.C. 409(a)(6)(B)) is amended by striking ''described in section 210(f)(5)'' and inserting ''on a farm operated for profit''.

(c) CONFORMING AMENDMENT.—Section 3121(g)(5) of such Code and section 210(f)(5) of such Act (42 U.S.C. 410(f)(5)) are amended by striking ''or is domestic service in a private home of the employer''.

SEC. 424. TECHNICAL CORRECTIONS OF OUTDATED REFERENCES.

(a) CORRECTION OF CITATION RESPECTING THE TAX DEDUCTION RELATING TO HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—Section 211(a)(15) of the Social Security Act (42 U.S.C. 411(a)(15)) is amended by striking ''section 162(m)'' and inserting ''section 162(l)''.

(b) ELIMINATION OF REFERENCE TO OBSOLETE 20-DAY AGRICULTURAL WORK TEST.—Section 3102(a) of the Internal Revenue Code of 1986 is amended by striking ''and the employee has not performed agricultural labor for the employer on 20 days or more in the calendar year for cash remuneration computed on a time basis''.

SEC. 425. TECHNICAL CORRECTION RESPECTING SELF-EMPLOYMENT INCOME IN COMMUNITY PROPERTY STATES.

(a) SOCIAL SECURITY ACT AMENDMENT.—Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking ''all of the gross income'' and all that follows and inserting ''the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions;''.

(b) INTERNAL REVENUE CODE OF 1986 AMENDMENT.—Section 1402(a)(5)(A) of the Internal Revenue Code of 1986 is amended by striking ''all of the gross income'' and all that follows and inserting ''the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and''.

SEC. 426. TECHNICAL AMENDMENTS TO THE RAILROAD RETIREMENT AND SURVIVORS' IMPROVEMENT ACT OF 2001.

(a) QUORUM RULES.—Section 15(j)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(7)) is amended by striking ''entire Board of Trustees'' and inserting ''Trustees then holding office''.

(b) POWERS OF THE BOARD OF TRUSTEES.—Section 15(j)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(4)) is amended to read as follows:

''(4) POWERS OF THE BOARD OF TRUSTEES.—The Board of Trustees shall—

''(A) retain independent advisers to assist it in the formulation and adoption of its investment guidelines;

''(B) invest assets of the Trust in a manner consistent with such investment guidelines, either directly or through the retention of independent investment managers;

''(C) adopt bylaws and other rules to govern its operations;

''(D) employ professional staff, and contract with outside advisers, including the Railroad Retirement Board, to provide legal, accounting, investment advisory or management services (compensation for which may be on a fixed contract fee basis or on such other terms as are customary for such services), or other services necessary for the proper administration of the Trust;

''(E) sue and be sued and participate in legal proceedings, have and use a seal, conduct business, carry on operations, and exercise its powers within or without the District of Columbia, form, own, or participate in entities of any kind, enter into contracts and agreements necessary to carry out its business purposes, lend money for such purposes, and deal with property as security for the payment of funds so loaned, and possess and exercise any other powers appropriate to carry out the purposes of the Trust;

''(F) pay administrative expenses of the Trust from the assets of the Trust; and

''(G) transfer money to the disbursing agent or as otherwise provided in section 7(b)(4), to pay benefits payable under this Act from the assets of the Trust.''.

(c) STATE AND LOCAL TAXES.—Section 15(j)(6) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(6)) is amended to read as follows:

''(6) STATE AND LOCAL TAXES.—The Trust shall be exempt from any income, sales, use, property, or other similar tax or fee imposed or levied by a State, political subdivision, or local taxing authority. The district courts of the United States shall have original jurisdiction over a civil action brought by the Trust to enforce this subsection and may grant equitable or declaratory relief requested by the Trust.''.

(d) FUNDING.—Section 15(j)(8) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(8)) is repealed.

(e) TRANSFERS.—Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(d)(2)) is amended—

(1) by inserting ''or the Railroad Retirement Account'' after ''National Railroad Retirement Investment Trust'' the second place it appears;

(2) by inserting ''or the Railroad Retirement Board'' after ''National Railroad Retirement Investment Trust'' the third place it appears;

(3) by inserting ''(either directly or through a commingled account consisting only of such obligations)'' after ''United States'' the first place it appears; and

(4) in the third sentence, by inserting before the period at the end the following: ''or to purchase such additional obligations''.

(f) CLERICAL AMENDMENTS.—Section 15(j)(5) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n(j)(5)) is amended—

(1) in subparagraph (B), by striking ''trustee's'' each place it appears and inserting ''Trustee's'';

(2) in subparagraph (C), by striking ''trustee'' and ''trustees'' each place it appears and inserting ''Trustee'' and ''Trustees'', respectively; and

(3) in the matter preceding clause (i) of subparagraph (D), by striking ''trustee'' and inserting ''Trustee''.

Subtitle D—Amendments Related to Title XVI

SEC. 430. EXCLUSION FROM INCOME FOR CERTAIN INFREQUENT OR IRREGULAR INCOME AND CERTAIN INTEREST OR DIVIDEND INCOME.

(a) INFREQUENT OR IRREGULAR INCOME.—Section 1612(b)(3) of the Social Security Act (42 U.S.C. 1382a(b)(3)) is amended to read as follows—

''(3) in any calendar quarter, the first—

''(A) $60 of unearned income, and

''(B) $30 of earned income,

of such individual (and such spouse, if any) which, as determined in accordance with criteria prescribed by the Commissioner of Social Security, is received too infrequently or irregularly to be included;''.

(b) INTEREST OR DIVIDEND INCOME.—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)) is amended—

(1) in paragraph (21), by striking ''and'' at the end;

(2) in paragraph (22), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(23) interest or dividend income from resources—

''(A) not excluded under section 1613(a), or

''(B) excluded pursuant to Federal law other than section 1613(a).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months in calendar quarters that begin more than 90 days after the date of the enactment of this Act.

SEC. 431. UNIFORM 9-MONTH RESOURCE EXCLUSION PERIODS.

(a) UNDERPAYMENTS OF BENEFITS.—Section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7)) is amended—

(1) by striking ''6'' and inserting ''9''; and

(2) by striking ''(or to the first 9 months following such month with respect to any amount so received during the period beginning October 1, 1987, and ending September 30, 1989)''.

(b) ADVANCEABLE TAX CREDITS.—Section 1613(a)(11) of the Social Security Act (42 U.S.C. 1382b(a)(11)) is amended to read as follows:

''(11) for the 9-month period beginning after the month in which received—

''(A) notwithstanding section 203 of the Economic Growth and Tax Relief Reconciliation Act of 2001, any refund of Federal income taxes made to such individual (or such spouse) under section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) by reason of subsection (d) thereof; and

''(B) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit);''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and shall apply to amounts described in paragraph (7) of section 1613(a) of the Social Security Act and refunds of Federal income taxes described in paragraph (11) of such section, that are received by an eligible individual or eligible spouse on or after such date.

SEC. 432. ELIMINATION OF CERTAIN RESTRICTIONS ON THE APPLICATION OF THE STUDENT EARNED INCOME EXCLUSION.

(a) IN GENERAL.—Section 1612(b)(1) of the Social Security Act (42 U.S.C. 1382a(b)(1)) is amended by striking ''a child who'' and inserting ''under the age of 22 and''.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 433. EXCEPTION TO RETROSPECTIVE MONTHLY ACCOUNTING FOR NONRECURRING INCOME.

(a) IN GENERAL.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)) is amended by adding at the end the following:

''(9)(A) Notwithstanding paragraphs (1) and (2), any nonrecurring income which is paid to an individual in the first month of any period of eligibility shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

''(B) For purposes of subparagraph (A), payments to an individual in varying amounts from the same or similar source for the same or similar purpose shall not be considered to be nonrecurring income.''.

(b) DELETION OF OBSOLETE MATERIAL.—Section 1611(c)(2)(B) of the Social Security Act (42 U.S.C. 1382(c)(2)(B)) is amended to read as follows:

''(B) in the case of the first month following a period of ineligibility in which eligibility is restored after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if eligibility had been restored on the first day of such month as the number of days in such month including and following the date of restoration of eligibility bears to the total number of days in such month.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act.

SEC. 434. REMOVAL OF RESTRICTION ON PAYMENT OF BENEFITS TO CHILDREN WHO ARE BORN OR WHO BECOME BLIND OR DISABLED AFTER THEIR MILITARY PARENTS ARE STATIONED OVERSEAS.

(a) IN GENERAL.—Section 1614(a)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended—

(1) by inserting ''and'' after ''citizen of the United States,''; and

(2) by striking '', and who,'' and all that follows and inserting a period.

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months beginning after the date of enactment of this Act, but only on the basis of an application filed after such date.

SEC. 435. TREATMENT OF EDUCATION-RELATED INCOME AND RESOURCES.

(a) EXCLUSION FROM INCOME OF GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.—Section 1612(b)(7) of the Social Security Act (42 U.S.C. 1382a(b)(7)) is amended by striking ''or fellowship received for use in paying'' and inserting ''fellowship, or gift (or portion of a gift) used to pay''.

(b) EXCLUSION FROM RESOURCES FOR 9 MONTHS OF GRANTS, SCHOLARSHIPS, FELLOWSHIPS, OR GIFTS PROVIDED FOR TUITION AND OTHER EDUCATION-RELATED FEES.—Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)) (as amended by section 101(c)(2)) is amended—

(1) in paragraph (13), by striking ''and'' at the end;

(2) in paragraph (14), by striking the period and inserting ''; and''; and

(3) by inserting after paragraph (14) the following:

''(15) for the 9-month period beginning after the month in which received, any grant, scholarship, fellowship, or gift (or portion of a gift) used to pay the cost of tuition and fees at any educational (including technical or vocational education) institution.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

SEC. 436. MONTHLY TREATMENT OF UNIFORMED SERVICE COMPENSATION.

(a) TREATMENT OF PAY AS RECEIVED WHEN EARNED.—Section 1611(c) of the Social Security Act (42 U.S.C. 1382(c)), as amended by section 435(a), is amended by adding at the end the following:

''(10) For purposes of this subsection, remuneration for service performed as a member of a uniformed service may be treated as received in the month in which it was earned, if the Commissioner of Social Security determines that such treatment would promote the economical and efficient administration of the program authorized by this title.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act.

WELCOMING PUBLIC APOLOGIES BY PRESIDENTS OF SERBIA AND MONTENEGRO, AND REPUBLIC OF CROATIA

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 378, S. Res. 237.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 237) welcoming the public apologies issued by the President of Serbia and Montenegro and the President of the Republic of Croatia and urging other leaders in the region to perform similar concrete acts of reconciliation.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution

be agreed to, the preamble agreed to, the motions to reconsider be laid upon the table en bloc, and any statements relating to the resolution be printed in the RECORD.

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

The resolution (S. Res. 237) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 237

Whereas the President of Serbia and Montenegro and the President of the Republic of Croatia each issued on September 10, 2003, a public statement of apology for the crimes committed by citizens of each country against citizens of the other country; and

Whereas the countries of Southeast Europe are struggling to move beyond the problems of the past and toward a brighter future that includes membership in both the European Union and NATO: Now, therefore, be it

Resolved, That the Senate—

(1) welcomes the public apologies issued on September 10, 2003, by the President of Serbia and Montenegro and the President of the Republic of Croatia;

(2) commends the initiative and personal courage demonstrated by their actions;

(3) recognizes the value of such apologies in the important process of reconciliation in Southeast Europe;

(4) notes public support within the region for these efforts;

(5) calls upon the governments in the region to continue their efforts to encourage and advance reconciliation; and

(6) reiterates the importance of resolving post-conflict issues, including—

(A) by ensuring that refugees and internally displaced persons have the right to return home; and

(B) by bringing persons indicted for war crimes to justice, including through cooperation with the International Criminal Tribunal on the Former Yugoslavia.

CONGO BASIN FOREST PARTNERSHIP ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 2264, and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2264) to authorize appropriations for fiscal years 2004 and 2005 to carry out the Congo Basin Forest Partnership (CBFP) program, and for other purposes.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the Alexander amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the title amendment be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The amendments (Nos. 2228 and 2229) were agreed to as follows:

AMENDMENT NO. 2228

(Purpose: To strike the authorization of appropriations for fiscal year 2005)

Beginning on page 5, strike line 24 and all that follows through page 6, line 11, and insert the following:

(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out the Congo Basin Forest Partnership (CBFP) program $18,600,000 for fiscal year 2004.

(b) CARPE.—Of the amounts appropriated pursuant to the authorization of appropriations in subsection (a), $16,000,000 is authorized to be made available to the Central Africa Regional Program for the Environment (CARPE) of the United States Agency for International Development.

(c) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

AMENDMENT NO. 2229

(Purpose: To amend the title)

Amend the title so as to read: ''To authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes.''.

The bill (H.R. 2264), as amended, was read the third time and passed.

DISTRICT OF COLUMBIA BUDGET AUTONOMY ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 418, S. 1267.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1267) to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment, as follows:

S. 1267

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''District of Columbia Budget Autonomy Act of 2003''.

SEC. 2. ENACTMENT OF DISTRICT OF COLUMBIA LOCAL BUDGET.

(a) IN GENERAL.—Section 446 of the District of Columbia Home Rule Act (sec. 1–204.46, D.C. Official Code) is amended to read as follows:

''ENACTMENT OF LOCAL BUDGET

''SEC. 446. (a) ADOPTION OF BUDGETS AND SUPPLEMENTS.—The Council, within 50 calendar days after receipt of the budget proposal from the Mayor, and after public hearing, shall by Act adopt the annual budget for the District of Columbia government. Any supplements thereto shall also be adopted by Act by the Council after public hearing.

''(b) TRANSMISSION TO PRESIDENT DURING CONTROL YEARS.—In the case of a budget for a fiscal year which is a control year, the budget so adopted shall be submitted by the Mayor to the President for transmission by him to the Congress, except that the Mayor shall not transmit any such budget, or amendments or supplements thereto, to the President until the completion of the budget procedures contained in this Act and the District of Columbia Financial Responsibility and Management Assistance Act of 1995.

''(c) PROHIBITING OBLIGATIONS AND EXPENDITURES NOT AUTHORIZED UNDER BUDGET.—Except as provided in section 445A(b), section 467(d), section 471(c), section 472(d), section 475(e), section 483(d), and subsections (f), (g), (h)(3), and (i)(3) of section 490, no amount may be obligated or expended by any officer or employee of the District of Columbia government unless—

''(1) such amount has been approved by an Act of the Council (and then only in accordance with such authorization) and a copy of such Act has been transmitted by the Chairman to the Congress; or

''(2) in the case of an amount obligated or expended during a control year, such amount has been approved by an Act of Congress (and then only in accordance with such authorization).

''(d) RESTRICTIONS ON REPROGRAMMING OF AMOUNTS.—After the adoption of the annual budget for a fiscal year (beginning with the annual budget for fiscal year 1995), no reprogramming of amounts in the budget may occur unless the Mayor submits to the Council a request for such reprogramming and the Council approves the request, but only if any additional expenditures provided under such request for an activity are offset by reductions in expenditures for another activity.

''(e) DEFINITION.—In this part, the term 'control year' has the meaning given such term in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.''.

(b) LENGTH OF CONGRESSIONAL REVIEW PERIOD FOR BUDGET ACTS.—Section 602(c) of such Act (sec. 1–206.02(c), D.C. Official Code) is amended—

(1) in the second sentence of paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (4)''; and

(2) by adding at the end the following new paragraph:

''(4) In the case of any Act transmitted under the first sentence of paragraph (1) to which section 446 applies and for which the fiscal year involved is not a control year, such Act shall take effect upon the expiration of the 30-calendar-day period beginning on the day such Act is transmitted, or upon the date prescribed by such Act, whichever is later, unless during such 30-day period, there has been enacted into law a joint resolution disapproving such Act. If such 30-day period expires on any day on which neither House is in session because of an adjournment sine die, a recess of more than three days, or an adjournment of more than three days, the period applicable under the previous sentence shall be extended for 5 additional days (excluding Saturdays, Sundays, and holidays, and any day on which neither House is in session because of an adjournment sine die, a recess of more than three days, or an adjournment of more than three days). In any case in which any such joint resolution disapproving such an Act has, within the applicable period, passed both Houses of Congress and has been transmitted to the President, such resolution, upon becoming law, subsequent to the expiration of such period, shall be deemed to have repealed such Act, as of the date such resolution becomes law. The provisions of section 604 shall apply with respect to any joint resolution disapproving any Act pursuant to this paragraph.''.

(c) CONFORMING AMENDMENTS.—(1) Sections 467(d), 471(c), 472(d)(2), 475(e)(2), and 483(d), and subsections (f), (g)(3), (h)(3), and (i)(3) of section 490 of such Act are each amended by striking ''The fourth sentence of section 446'' and inserting ''Section 446(c)''.

(2) The third sentence of section 412(a) of such Act (sec. 1–204.12(a), D.C. Official Code) is amended by inserting ''for a fiscal year which is a control year described in such section'' after ''section 446 applies''.

(3) Section 202(c)(2) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (sec. 47–

392.02(c)(2), D.C. Official Code) is amended by striking ''the first sentence of section 446'' and inserting ''section 446(a)''.

(4) Section 202(d)(3)(A) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (sec. 47–392.02(d)(3)(A), D.C. Official Code) is amended by striking ''the first sentence of section 446'' and inserting ''section 446(a)''.

(5) Section 11206 of the National Capital Revitalization and Self-Government Improvement Act of 1997 (sec. 24–106, D.C. Official Code) is amended by striking ''the fourth sentence of section 446'' and inserting ''section 446(c)''.

(d) CLERICAL AMENDMENT.—The item relating to section 446 in the table of contents of such Act is amended to read as follows:

''Sec. 446. Enactment of local budget.''.

SEC. 3. ACTION BY COUNCIL OF DISTRICT OF COLUMBIA ON LINE-ITEM VETOES BY MAYOR OF PROVISIONS OF BUDGET ACTS.

(a) IN GENERAL.—Section 404(f) of the District of Columbia Home Rule Act (sec. 1–204.4(f), D.C. Official Code) is amended by striking ''transmitted by the Chairman to the President of the United States'' both places it appears and inserting the following: ''incorporated in such Act (or, in the case of an item or provision contained in a budget act for a control year, transmitted by the Chairman to the President)''.

(b) CONFORMING AMENDMENT.—Section 404(f) of such Act (sec. 1–204.04(f), D.C. Official Code) is amended—

(1) by striking ''(f)'' and inserting ''(f)(1)'';

(2) in the fifth sentence, by striking ''(as defined in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995), this subsection'' and inserting ''this paragraph''; and

(3) by adding at the end the following new paragraph:

''(2) In this subsection, the term 'control year' has the meaning given such term in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.''.

SEC. 4. PERMITTING EMPLOYEES TO BE HIRED IF POSITION AUTHORIZED BY ACT OF THE COUNCIL.

Section 447 of the District of Columbia Home Rule Act (sec. 1–204.47, D.C. Official Code) is amended—

(1) by striking ''Act of Congress'' each place it appears and inserting ''act of the Council (or Act of Congress, in the case of a year which is a control year)''; and

(2) by striking ''Acts of Congress'' and inserting ''acts of the Council (or Acts of Congress, in the case of a year which is a control year)''.

SEC. 5. OTHER CONFORMING AMENDMENTS RELATING TO CHANGES IN FEDERAL ROLE IN BUDGET PROCESS.

(a) FEDERAL AUTHORITY OVER BUDGET-MAKING PROCESS.—Section 603(a) of the District of Columbia Home Rule Act (sec. 1–206.03, D.C. Official Code) is amended by inserting before the period at the end the following: ''for a fiscal year which is a control year''.

(b) RESTRICTIONS APPLICABLE DURING CONTROL YEARS.—Section 603(d) of such Act (sec. 1–206.03(d), D.C. Official Code) is amended to read as follows:

''(d) In the case of a fiscal year which is a control year, the Council may not approve, and the Mayor may not forward to the President, any budget which is not consistent with the financial plan and budget established for the fiscal year under subtitle A of title II of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.''.

(c) DEFINITION.—Section 603(f) of such Act (sec. 1–206.03(f), D.C. Official Code) is amended to read as follows:

''(f) In this section, the term 'control year' has the meaning given such term in section 305(4) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995.''.

SEC. 6. CONTINUATION OF GENERAL PROVISIONS IN APPROPRIATIONS ACTS AND TREATMENT OF AMENDMENTS.

(a) CONTINUATION.—Any general provision contained in a general appropriation bill which includes the appropriation of Federal payments to the District of Columbia for a fiscal year (or, in the case of such a bill which is included as a division, title, or other portion of another general appropriation bill, any general provision contained in such division, title, or other portion) in effect on the date of enactment of this Act shall remain in effect until the date of the enactment of a general appropriation bill which includes the appropriation of Federal payments to the District of Columbia for the following fiscal year.

(b) AMENDMENTS IN THE SENATE.—In the case of the consideration in the Senate of a general appropriations bill that includes the appropriations of Federal payments to the District of Columbia, an amendment proposing a limitation on the use of any District of Columbia funds by the District of Columbia shall not constitute general legislation under paragraphs 2 and 4 of Rule XVI of the Standing Rules of the Senate.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall apply to budgets of the District of Columbia for fiscal years beginning on or after October 1, 2004.

TITLE II—DISTRICT OF COLUMBIA INDEPENDENCE OF THE CHIEF FINANCIAL OFFICER ACT OF 2003

SEC. 201. SHORT TITLE.

This title may be cited as the ''District of Columbia Independence of the Chief Financial Officer Act of 2003''.

SEC. 202. AMENDMENTS TO THE HOME RULE ACT.

(a) IN GENERAL.—Part B of title IV section 424 of the District of Columbia Home Rule Act is amended to read as follows:

''OFFICE OF THE CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

''SEC. 424. (a) IN GENERAL.—

''(1) ESTABLISHMENT.—There is hereby established within the executive branch of the government of the District of Columbia an Office of the Chief Financial Officer of the District of Columbia ('Office'), which shall be headed by the Chief Financial Officer of the District of Columbia ('Chief Financial Officer').

''(2) ORGANIZATIONAL ANALYSIS.—

''(A) OFFICE OF BUDGET AND PLANNING.—The name of the Office of Budget and Management, established by Commissioner's Order 69–96, issued March 7, 1969, is changed to the Office of Budget and Planning.

''(B) OFFICE OF TAX AND REVENUE.—The name of the Department of Finance and Revenue, established by Commissioner's Order 69–96, issued March 7, 1969, is changed to the Office of Tax and Revenue.

''(C) OFFICE OF FINANCE AND TREASURY.—The name of the Office of Treasurer, established by Mayor's Order 89–244, dated October 23, 1989, is changed to the Office of Finance and Treasury.

''(D) OFFICE OF FINANCIAL OPERATIONS AND SYSTEMS.—The Office of the Controller, established by Mayor's Order 89–243, dated October 23, 1989, and the Office of Financial Information Services, established by Mayor's Order 89–244, dated October 23, 1989, are consolidated into the Office of Financial Operations and Systems.

''(3) TRANSFERS.—Effective with the appointment of the first Chief Financial Officer under subsection (b), the functions and personnel of the following offices are established as subordinate offices within the Office of the Chief Financial Officer:

''(A) The Office of Budget and Planning, headed by the Deputy Chief Financial Officer for the Office of Budget and Planning.

''(B) The Office of Tax and Revenue, headed by the Deputy Chief Financial Officer for the Office of Tax and Revenue.

''(C) The Office of Research and Analysis, headed by the Deputy Chief Financial Officer for the Office of Research and Analysis.

''(D) The Office of Financial Operations and Systems, headed by the Deputy Chief Financial Officer for the Office of Financial Operations and Systems.

''(E) The Office of Finance and Treasury, headed by the District of Columbia Treasurer.

''(F) The Lottery and Charitable Games Control Board, established by the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3–172; D.C. Official Code § 3–1301 et seq.).

''(4) SUPERVISOR.—The heads of the offices listed in paragraph (3) of this section shall serve at the pleasure of the Chief Financial Officer.

''(5) APPOINTMENT AND REMOVAL OF OFFICE EMPLOYEES.—The Chief Financial Officer shall appoint the heads of the subordinate offices designated in paragraph (3), after consultation with the Mayor and the Council. The Chief Financial Officer may remove the heads of the offices designated in paragraph (3), after consultation with the Mayor and the Council.

''(6) ANNUAL BUDGET SUBMISSION.—The Chief Financial Officer of the District of Columbia shall prepare and annually submit to the Mayor of the District of Columbia, for inclusion in the annual budget of the District of Columbia government for a fiscal year, annual estimates of the expenditures and appropriations necessary for the year for the operation of the Office of the Chief Financial Officer and all other District of Columbia accounting, budget, and financial management personnel (including personnel of executive branch independent agencies) that report to the Office of the Chief Financial Officer pursuant to this Act.

''(b) APPOINTMENT OF THE CHIEF FINANCIAL OFFICER.—

''(1) IN GENERAL.—The Chief Financial Officer shall be appointed by the Mayor with the advice and consent, by resolution, of the Council.

''(2) TERM.—

''(A) IN GENERAL.—All appointments made after June 30, 2007, shall be for a term of 5 years, except for appointments made for the remainder of unexpired terms. The appointments shall have an anniversary date of July 1.

''(B) TEMPORARY.—The term of office of the Chief Financial Officer first appointed pursuant to subsection (a) shall begin upon the date of enactment of the District of Columbia Independence of the Chief Financial Officer Act of 2003. The initial term shall end on June 30, 2007.

''(C) CONTINUANCE.—Any Chief Financial Officer may continue to serve beyond his term until a successor takes office.

''(D) VACANCIES.—Any vacancy in the Office of Chief Financial Officer shall be filled in the same manner as the original appointment under paragraph (1).

''(E) PAY.—The Chief Financial Officer shall be paid at an annual rate equal to the rate of basic pay payable for level I of the Executive Schedule.

''(c) REMOVAL OF THE CHIEF FINANCIAL OFFICER.—The Chief Financial Officer may only be removed for cause by the Mayor.

''(d) DUTIES OF THE CHIEF FINANCIAL OFFICER.—The Chief Financial Officer shall have the following duties and shall take such steps as are necessary to perform these duties:

''(1) Preparing the financial plan and the budget for the use of the Mayor for purposes of subpart B of subchapter VII of chapter 3 of title 47 of the D.C. Code and preparing the 5-year financial plan based upon the adopted budget for

submission with the District of Columbia budget by the Mayor to Congress.

''(2) Preparing the budgets of the District of Columbia for the year for the use of the Mayor for purposes of sections 441–444, 446, 448–452, 455 of the District of Columbia Home Rule Act, approved (87 Stat. 798–803; D.C. Official Code §§ 1–204.41 through 1–204.44, 1–204.46, 1–204.48 through 1–204.52, 1–204.55), section 445a of the District of Columbia Home Rule Act, approved August 6, 1996 (110 Stat. 1698; D.C. Official Code § 1–204.45a), section 453 of the District of Columbia Home Rule Act, approved April 17, 1991 (105 Stat. 539; D.C. Official Code § 1–204.53), sections 456(a) through 456(d) of the District of Columbia Home Rule Act, approved October 19, 1994 (108 Stat. 3488; D.C. Official Code §§ 1–204.56a through 1–204.56d), and section 456(e) of the District of Columbia Home Rule Act, approved April 17, 1995 (109 Stat. 140; D.C. Official Code § 1–204.56e).

''(3) Implementing appropriate procedures and instituting such programs, systems, and personnel policies within the Officer's authority, to ensure that budget, accounting, and personnel control systems and structures are synchronized for budgeting and control purposes on a continuing basis and to ensure that appropriations are not exceeded.

''(4) Preparing and submitting to the Mayor and the Council and making public—

''(A) annual estimates of all revenues of the District of Columbia (without regard to the source of such revenues), including proposed revenues, which shall be binding on the Mayor and the Council for purposes of preparing and submitting the budget of the District government for the year under sections 441 through 444, 446, 448 through 452, and 455 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 798–803; D.C. Official Code §§ 1–204.41 through 1–204.44, 1–204.46, 1–204.48 through 1–204.52, 1–204.55), section 445a of the District of Columbia Home Rule Act, approved August 6, 1996 (110 Stat. 1698; D.C. Official Code § 1–204.45a), section 453 of the District of Columbia Home Rule Act, approved April 17, 1991 (105 Stat. 539; D.C. Official Code § 1–204.53), sections 456(a) through 456(d) of the District of Columbia Home Rule Act, approved October 19, 1994 (108 Stat. 3488; D.C. Official Code §§ 1–204.56a through 1–204.56d), and section 456(e) of the District of Columbia Home Rule Act, approved April 17, 1995 (109 Stat. 140; D.C. Official Code § 1–204.56e), except that the Mayor and the Council may prepare the budget based on estimates of revenues which are lower than those prepared by the Chief Financial Officer; and

''(B) quarterly re-estimates of the revenues of the District of Columbia during the year.

''(5) Supervising and assuming responsibility for financial transactions to ensure adequate control of revenues and resources.

''(6) Maintaining systems of accounting and internal control designed to provide—

''(A) full disclosure of the financial impact of the activities of the District government;

''(B) adequate financial information needed by the District government for management purposes;

''(C) accounting for all funds, property, and other assets of the District of Columbia; and

''(D) reliable accounting results to serve as the basis for preparing and supporting agency budget requests and controlling the execution of the budget.

''(7) Submitting to the Council a financial statement of the District government, containing such details and at such times as the Council may specify.

''(8) Supervising and assuming responsibility for the assessment of all property subject to assessment and special assessments within the corporate limits of the District of Columbia for taxation, preparing tax maps, and providing such notice of taxes and special assessments (as may be required by law).

''(9) Supervising and assuming responsibility for the levying and collection of all taxes, special assessments, licensing fees, and other revenues of the District of Columbia (as may be required by law), and receiving all amounts paid to the District of Columbia from any source (including the District of Columbia Financial Responsibility and Management Assistance Authority).

''(10) Maintaining custody of all public funds belonging to or under the control of the District government (or any department or agency of the District government), and depositing all amounts paid in such depositories and under such terms and conditions as may be designated by the Council.

''(11) Maintaining custody of all investment and invested funds of the District government or in possession of the District government in a fiduciary capacity, and maintaining the safekeeping of all bonds and notes of the District government and the receipt and delivery of District government bonds and notes for transfer, registration, or exchange.

''(12) Apportioning the total of all appropriations and funds made available during the year for obligation so as to prevent obligation or expenditure in a manner which would result in a deficiency or a need for supplemental appropriations during the year, and (with respect to appropriations and funds available for an indefinite period and all authorizations to create obligations by contract in advance of appropriations) apportioning the total of such appropriations, funds, or authorizations in the most effective and economical manner.

''(13) Certifying all contracts and leases (whether directly or through delegation) prior to execution as to the availability of funds to meet the obligations expected to be incurred by the District government under such contracts and leases during the year.

''(14) Prescribing the forms of receipts, vouchers, bills, and claims to be used by all agencies, offices, and instrumentalities of the District government.

''(15) Certifying and approving prior to payment of all bills, invoices, payrolls, and other evidences of claims, demands, or charges against the District government, and determining the regularity, legality, and correctness of such bills, invoices, payrolls, claims, demands, or charges.

''(16) In coordination with the Inspector General of the District of Columbia, performing internal audits of accounts and operations and records of the District government, including the examination of any accounts or records of financial transactions, giving due consideration to the effectiveness of accounting systems, internal control, and related administrative practices of the departments and agencies of the District government.

''(17) Exercising responsibility for the administration and supervision of the District of Columbia Treasurer (except that the Chief Financial Officer may delegate any portion of such responsibility as the Chief Financial Officer considers appropriate and consistent with efficiency).

''(18) Supervising and administering all borrowing programs secured by the full faith and credit of the District government for the issuance of long-term and short-term indebtedness.

''(19) Administering the cash management program of the District government, including the investment of surplus funds in governmental and non-governmental interest-bearing securities and accounts.

''(20) Administering the centralized District government payroll and retirement systems.

''(21) Governing the accounting policies and systems applicable to the District government.

''(22) Preparing appropriate annual, quarterly, and monthly financial reports of the accounting and financial operations of the District government.

''(23) Not later than 120 days after the end of each fiscal year, preparing the complete financial statement and report on the activities of the District government for such fiscal year, for the use of the Mayor under section 448(a)(4) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 801; D.C. Official Code § 1–204.48(a)(4)).

''(24) Preparing fiscal impact statements on regulations, multiyear contracts, contracts over $1,000,000 and on legislation, as required by section 4a of the General Legislative Procedures Act of 1975.

''(25) Preparing under the direction of the Mayor, who has the specific responsibility for formulating budget policy using Chief Financial Officer technical and human resources, the budget for submission by the Mayor to the Council and to the public and upon final adoption to Congress and to public.

''(26) Certifying all collective bargaining agreements and nonunion pay proposals prior to submission to the Council for approval as to the availability of funds to meet the obligations expected to be incurred by the District government under such collective bargaining agreements and nonunion pay proposals during the year.

''(e) APPOINTMENT OF CERTAIN EXECUTIVE BRANCH AGENCY CHIEF FINANCIAL OFFICERS.—The chief financial officers of all District of Columbia executive branch subordinate and independent agencies not included in subsection a(3) and associate chief financial officers shall be appointed by the Chief Financial Officer, in consultation with the agency head, where applicable. The appointment shall be made from a list of qualified candidates developed by the Chief Financial Officer.

''(f) FUNCTIONS OF TREASURER.—At all times, the Treasurer shall have the following duties:

''(1) Assisting the Chief Financial Officer in reporting revenues received by the District government, including submitting annual and quarterly reports concerning the cash position of the District government not later than 60 days after the last day of the quarter (or year) involved which shall include—

''(A) comparative reports of revenue and other receipts by source, including tax, nontax, and Federal revenues, grants and reimbursements, capital program loans, and advances. Each source shall be broken down into specific components;

''(B) statements of the cash flow of the District government for the preceding quarter or year, including receipts, disbursements, net changes in cash inclusive of the beginning balance, cash and investment, and the ending balance, inclusive of cash and investment. Such statements shall reflect the actual, planned, better or worse dollar amounts and the percentage change with respect to the current quarter, year-to-date, and fiscal year;

''(C) quarterly cash flow forecast for the quarter or year involved, reflecting receipts, disbursements, net change in cash inclusive of the beginning balance, cash and investment, and the ending balance, inclusive of cash and investment with respect to the actual dollar amounts for the quarter or year, and projected dollar amounts for each of the 3 succeeding quarters;

''(D) monthly reports reflecting a detailed summary analysis of all District of Columbia government investments, including—

''(i) the total of long-term and short-term investments;

''(ii) a detailed summary analysis of investments by type and amount, including purchases, sales (maturities), and interest;

''(iii) an analysis of investment portfolio mix by type and amount, including liquidity, quality/risk of each security, and similar information;

''(iv) an analysis of investment strategy, including near-term strategic plans and projects of investment activity, as well as forecasts of future investment strategies based on anticipated market conditions, and similar information; and

''(v) an analysis of cash utilization, including—

''(I) comparisons of budgeted percentages of total cash to be invested with actual percentages of cash invested and the dollar amounts;

''(II) comparisons of the next return on invested cash expressed in percentages (yield) with comparable market indicators and established District of Columbia government yield objectives; and

''(III) comparisons of estimated dollar return against actual dollar yield; and

''(E) monthly reports reflecting a detailed summary analysis of long-term and short-term borrowings inclusive of debt as authorized by §1–206.03, in the current fiscal year and the amount of debt for each succeeding fiscal year not to exceed 5 years; all such reports shall reflect—

''(i) the amount of debt outstanding by type of instrument;

''(ii) the amount of authorized and unissued debt, including availability of short-term lines of credit, United States Treasury borrowings, and similar information;

''(iii) a maturity schedule of the debt;

''(iv) the rate of interest payable upon the debt; and

''(v) the amount of debt service requirements and related debt service reserves.

''(2) Such other functions assigned to the Chief Financial Officer under subsection (d) as the Chief Financial Officer may delegate.

''(g) TRANSITION PROVISIONS.—

''(1) CFO.—Any Chief Financial Officer appointed by the Mayor prior to the date of enactment of the District of Columbia Independence of the Chief Financial Officer Act of 2003 may continue to serve in that capacity without reappointment until a new appointment under subsection (a) becomes effective.

''(2) EXECUTIVE BRANCH CFO.—Any executive branch agency chief financial officer appointed prior to the date of enactment of the District of Columbia Independence of the Chief Financial Officer Act of 2003 may continue to serve in that capacity without reappointment.''.

SEC. 203. CLARIFICATION OF DUTIES OF CHIEF FINANCIAL OFFICER AND MAYOR.

(a) RELATION TO FINANCIAL DUTIES OF MAYOR.—Section 448(a) of such Act (section 1–204.48(a), D.C. Official Code) is amended by striking ''section 603,'' and inserting ''section 603 and except to the extent provided under section 424(d),''.

(b) RELATION TO MAYOR'S DUTIES REGARDING ACCOUNTING SUPERVISION AND CONTROL.—Section 449 of such Act (section 1–204.49, D.C. Official Code) is amended by striking ''The Mayor'' and inserting ''Except to the extent provided under section 424(d), the Mayor''.

SEC. 204. RULE REGARDING PERSONNEL AUTHORITY.

(a) IN GENERAL.—The Home Rule Act is amended by adding by adding after section 424g the following:

''AUTHORITY OVER PERSONNEL OF OFFICE AND OTHER FINANCIAL PERSONNEL

''SEC. 424h. (a) IN GENERAL.—Notwithstanding any provision of law or regulation, employees of the Office of the Chief Financial Officer, including personnel described in subsection (b), shall be appointed by, shall serve at the pleasure of, and shall act under the direction and control of the Chief Financial Officer of the District of Columbia, and shall be considered at-will employees, except that the Chief Financial Officer shall comply with any collective bargaining agreement entered into by the Office of the Chief Financial Officer.

''(b) PERSONNEL.—The personnel described in this subsection are as follows:

''(1) The Office of the General Counsel within the Office of the Chief Financial Officer of the District of Columbia, such office shall include the General Counsel to the Chief Financial Officer and individuals hired or retained as attorneys by the Chief Financial Officer or any office under the personnel authority of the Office of the Chief Financial Officer, all such attorneys shall act under the direction and control of the General Counsel to the Chief Financial Officer.

''(2) Personnel of the Office not described in paragraph (1).

''(3) The heads and all personnel of the offices described in subsection (c) and the Chief Financial Officers of all District of Columbia executive branch subordinate and independent agencies, Associate chief financial officers, together with all other District of Columbia accounting, budget, and financial management personnel (including personnel of executive branch independent agencies).

''(c) OFFICES DESCRIBED.—The offices referred to in this subsection are as follows:

''(1) The Office of Finance and Treasury (or any successor office).

''(2) The Office of Financial Operations and Systems (or any successor office).

''(3) The Office of the Budget and Planning (or any successor office).

''(4) The Office of Tax and Revenue (or any successor office).

''(5) The District of Columbia Lottery and Charitable Games Control Board.

''(d) INDEPENDENT AUTHORITY OVER LEGAL PERSONNEL.—Sections 851 through 862 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–260; D.C. Official Code §1–608.51–1–608.62) shall not apply to attorneys employed by the Office of the Chief Financial Officer.''

(b) CONFORMING AMENDMENT.—Section 862 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2–260; D.C. Official Code §1–608.62) is amended by striking paragraph (2).

SEC. 205. PROCUREMENT AUTHORITY.

(a) MAINTENANCE OF A PROCUREMENT OFFICE INDEPENDENT OF THE MAYOR'S PROCUREMENT OFFICE.—Section 104(c) of the District of Columbia Procurement Practices Act of 1986, effective February 21, 1986 (D.C. Law 6–85; D.C. Official Code §2–301.04), is amended by striking beginning with ''During a control year, as defined by §47–393(4),'' through ''Chief Financial Officer shall be bound by the provisions contained in this Act.''.

(b) HOME RULE ACT.—The Home Rule Act is amended by adding after section 424h the following:

''PROCUREMENT AUTHORITY OF THE CHIEF FINANCIAL OFFICER

''SEC. 424i. The Office of the Chief Financial Officer's procurement practices shall be governed by the provisions of chapter 3 of title 2 of the D.C. Official Code, except that the Office of the Chief Financial Officer shall maintain a procurement office or division that shall operate independent of, and shall not be governed by, the Office of Contracting and Procurement, established by section 2–301.05, or its successor office.''.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 6 months after the date of enactment of this Act.

SEC. 206. FISCAL IMPACT STATEMENTS.

The General Legislative Procedures Act of 1975, effective September 23, 1975 (D.C. Law 1–17; D.C. Official §§Code 1–301.45 through 1–301.47), is amended by adding after section 4 the following:

''FISCAL IMPACT STATEMENTS

''SEC. 4a. (a) BILLS AND RESOLUTIONS.—

''(1) IN GENERAL.—Notwithstanding any other law, except as provided in subsection (c), all permanent bills and resolutions shall be accompanied by a fiscal impact statement before final adoption by the Council.

''(2) CONTENTS.—The fiscal impact statement shall include the estimate of the costs which will be incurred by the District as a result of the enactment of the measure in the current and each of the first four fiscal years for which the act or resolution is in effect, together with a statement of the basis for such estimate.

''(b) APPROPRIATIONS.—Permanent and emergency acts which are accompanied by fiscal impact statements which reflect unbudgeted costs, shall be subject to appropriations prior to becoming effective.

''(c) APPLICABILITY.—Subsection (a) shall not apply to emergency declaration, ceremonial, confirmation, and sense of the Council resolutions.''.

Mr. FRIST. Mr. President, I ask unanimous consent that the committee amendment be agreed to.

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

The committee amendment was agreed to.

Mr. FRIST. Mr. President, I understand that Senator LEVIN has an amendment at the desk. I ask that the amendment be considered and agreed to, the motion to reconsider be laid upon the table; that the bill, as amended, be read three times, passed, the motion to reconsider be laid upon the table without any intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2230) was agreed to as follows:

AMENDMENT NO. 2230

(Purpose: To provide for metered cabs in the District of Columbia)

At the appropriate place, insert the following: (p. 10, after l. 2)

SEC. ___. METERED CABS IN THE DISTRICT OF COLUMBIA.

(a) IN GENERAL.—Except as provided in subsection (b) and not later than 1 year after the date of enactment of this Act, the District of Columbia shall require all cabs licensed in the District of Columbia to charge fares by a metered system.

(b) DISTRICT OF COLUMBIA OPT OUT.—The District of Columbia may cancel the requirements of subsection (a) by adopting an ordinance that specifically states that the District of Columbia opts out of the requirement to implement a metered system under subsection (a).

The bill (S. 1267), as amended, was read the third time and passed.

THE TRAFFICKING VICTIMS PROTECTION ACT OF 2000

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 2620, which is at the desk.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2620) to authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, and for other purposes.

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

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

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

The bill (H.R. 2620) was read the third time and passed.

POISON CONTROL CENTER ENHANCEMENT AND AWARENESS ACT AMENDMENTS OF 2003

Mr. FRIST. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 686) to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

S. 686

Resolved, That the bill from the Senate (S. 686) entitled ''An Act to provide assistance for poison prevention and to stabilize the funding of regional poison control centers'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Poison Control Center Enhancement and Awareness Act Amendments of 2003''.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Poison control centers are our Nation's primary defense against injury and deaths from poisoning. Twenty-four hours a day, the general public as well as health care practitioners contact their local poison centers for help in diagnosing and treating victims of poisoning and other toxic exposures.

(2) Poisoning is the third most common form of unintentional death in the United States. In any given year, there will be between 2,000,000 and 4,000,000 poison exposures. More than 50 percent of these exposures will involve children under the age of 6 who are exposed to toxic substances in their home. Poisoning accounts for 285,000 hospitalizations, 1,200,000 days of acute hospital care, and 13,000 fatalities annually.

(3) Stabilizing the funding structure and increasing accessibility to poison control centers will promote the utilization of poison control centers, and reduce the inappropriate use of emergency medical services and other more costly health care services.

(4) The tragic events of September 11, 2001, and the anthrax cases of October 2001, have dramatically changed our Nation. During this time period, poison centers in many areas of the country were answering thousands of additional calls from concerned residents. Many poison centers were relied upon as a source for accurate medical information about the disease and the complications resulting from prophylactic antibiotic therapy.

(5) The 2001 Presidential Task Force on Citizen Preparedness in the War on Terrorism recommended that the Poison Control Centers be used as a source of public information and public education regarding potential biological, chemical, and nuclear domestic terrorism.

(6) The increased demand placed upon poison centers to provide emergency information in the event of a terrorist event involving a biological, chemical, or nuclear toxin will dramatically increase call volume.

SEC. 3. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.) is amended by adding at the end the following:

''PART G—POISON CONTROL

''SEC. 1271. MAINTENANCE OF A NATIONAL TOLL-FREE NUMBER.

''(a) IN GENERAL.—The Secretary shall provide coordination and assistance to regional poison control centers for the establishment of a nationwide toll-free phone number to be used to access such centers.

''(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the establishment or continued operation of any privately funded nationwide toll-free phone number used to provide advice and other assistance for poisonings or accidental exposures.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000 for each of the fiscal years 2000 through 2009. Funds appropriated under this subsection shall not be used to fund any toll-free phone number described in subsection (b).

''SEC. 1272. NATIONWIDE MEDIA CAMPAIGN TO PROMOTE POISON CONTROL CENTER UTILIZATION.

''(a) IN GENERAL.—The Secretary shall establish a national media campaign to educate the public and health care providers about poison prevention and the availability of poison control resources in local communities and to conduct advertising campaigns concerning the nationwide toll-free number established under section 1271.

''(b) CONTRACT WITH ENTITY.—The Secretary may carry out subsection (a) by entering into contracts with 1 or more nationally recognized media firms for the development and distribution of monthly television, radio, and newspaper public service announcements.

''(c) EVALUATION.—The Secretary shall—

''(1) establish baseline measures and benchmarks to quantitatively evaluate the impact of the nationwide media campaign established under this section; and

''(2) prepare and submit to the appropriate congressional committees an evaluation of the nationwide media campaign on an annual basis.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $600,000 for each of fiscal years 2000 through 2005 and such sums as may be necessary for each of fiscal years 2006 through 2009.

''SEC. 1273. MAINTENANCE OF THE POISON CONTROL CENTER GRANT PROGRAM.

''(a) REGIONAL POISON CONTROL CENTERS.—The Secretary shall award grants to certified regional poison control centers for the purposes of achieving the financial stability of such centers, and for preventing and providing treatment recommendations for poisonings.

''(b) OTHER IMPROVEMENTS.—The Secretary shall also use amounts received under this section to—

''(1) develop standardized poison prevention and poison control promotion programs;

''(2) develop standard patient management guidelines for commonly encountered toxic exposures;

''(3) improve and expand the poison control data collection systems, including, at the Secretary's discretion, by assisting the poison control centers to improve data collection activities;

''(4) improve national toxic exposure surveillance by enhancing activities at the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry;

''(5) expand the toxicologic expertise within poison control centers; and

''(6) improve the capacity of poison control centers to answer high volumes of calls during times of national crisis.

''(c) CERTIFICATION.—Except as provided in subsection (d), the Secretary may make a grant to a center under subsection (a) only if—

''(1) the center has been certified by a professional organization in the field of poison control, and the Secretary has approved the organization as having in effect standards for certification that reasonably provide for the protection of the public health with respect to poisoning; or

''(2) the center has been certified by a State government, and the Secretary has approved the State government as having in effect standards for certification that reasonably provide for the protection of the public health with respect to poisoning.

''(d) WAIVER OF CERTIFICATION REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary may grant a waiver of the certification requirement of subsection (c) with respect to a noncertified poison control center or a newly established center that applies for a grant under this section if such center can reasonably demonstrate that the center will obtain such a certification within a reasonable period of time as determined appropriate by the Secretary.

''(2) RENEWAL.—The Secretary may renew a waiver under paragraph (1).

''(3) LIMITATION.—In no instance may the sum of the number of years for a waiver under paragraph (1) and a renewal under paragraph (2) exceed 5 years. The preceding sentence shall take effect as if enacted on February 25, 2000.

''(e) SUPPLEMENT NOT SUPPLANT.—Amounts made available to a poison control center under this section shall be used to supplement and not supplant other Federal, State, or local funds provided for such center.

''(f) MAINTENANCE OF EFFORT.—A poison control center, in utilizing the proceeds of a grant under this section, shall maintain the expenditures of the center for activities of the center at a level that is not less than the level of such expenditures maintained by the center for the fiscal year preceding the fiscal year for which the grant is received.

''(g) MATCHING REQUIREMENT.—The Secretary may impose a matching requirement with respect to amounts provided under a grant under this section if the Secretary determines appropriate.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for each of the fiscal years 2000 through 2004 and $27,500,000 for each of fiscal years 2005 through 2009.

''SEC. 1274. RULE OF CONSTRUCTION.

''Nothing in this part may be construed to ease any restriction in Federal law applicable to the amount or percentage of funds appropriated to carry out this part that may be used to prepare or submit a report.''.

SEC. 4. CONFORMING AMENDMENT.

The Poison Control Center Enhancement and Awareness Act (42 U.S.C. 14801 et seq.) is hereby repealed.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate concur in the House amendment, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

ARREST OF MIKHAIL B. KHODORKOVSKY BY THE RUSSIAN FEDERATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 380, S. Res. 258.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 258) expressing the sense of the Senate on the arrest of Mikhail B. Khodorkovsky by the Russian Federation.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table en bloc, and that any

statements relating to the bill be printed in the RECORD.

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

The resolution (S. Res. 258) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 258

Whereas the Russian Federation is now a member of the family of democratic countries;

Whereas the United States supports the development of democracy, free markets, and civil society in the Russian Federation and in other states of the former Soviet Union;

Whereas the rule of law, the impartial application of the law, and equal justice for all in courts of law are pillars of all democratic societies;

Whereas investment, both foreign and domestic, in the economy of Russia is necessary for the growth of the economy and raising the standard of living of the citizens of the Russian Federation;

Whereas property rights are a bulwark of civil society against encroachment by the state, and a fundamental building block of democracy; and

Whereas reports of the arrest of Mikhail B. Khodorkovsky and the freezing of shares of the oil conglomerate YUKOS have raised questions about the possible selective application of the law in the Russian Federation and may have compromised investor confidence in business conditions there: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the law enforcement and judicial authorities of the Russian Federation should ensure that Mikhail B. Khodorkovsky is accorded the full measure of his rights under the Russian Constitution to defend himself against any and all charges that may be brought against him, in a fair and transparent process, so that individual justice may be done, but also so that the efforts the Russian Federation has been making to reform its system of justice may be seen to be moving forward; and

(2) such authorities of the Russian Federation should make every effort to dispel growing international concerns that—

(A) the cases against Mikhail B. Khodorkovsky and other business leaders are politically motivated; and

(B) the potential remains for misuse of the justice system in the Russian Federation.

CONGRATULATING THE SAN JOSE EARTHQUAKES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 280, submitted earlier today by Senators BOXER and FEINSTEIN.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 280) congratulating the San Jose Earthquakes for winning the 2003 Major League Soccer Cup.

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

Mrs. BOXER. Mr. President, on November 23, the San Jose Earthquakes became only the second team in Major League Soccer, MLS, history to win the MLS Cup more than once, beating the Chicago Fire 4–2 in a well-fought match.

In the championship game against Chicago, San Jose delighted a capacity crowd in Carson, CA by scoring four goals and saving one penalty kick. The game matched the excitement of the Western Conference final game, in which Landon Donovan—the two-time recipient of the U.S. National Team Player of the Year award—secured the Earthquakes' place in the Championship by netting a dramatic golden goal in the 117th minute.

Californians should take great pride in this impressive accomplishment by the San Jose Earthquakes. The Earthquakes' success on the field was earned through the hard work of their outstanding athletes and coaches, and the encouragement of their fans. I congratulate them on their win and their second MLS Cup.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc; 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 resolution (S. Res. 280) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 280

Whereas on November 23, 2003, the San Jose Earthquakes defeated the Chicago Fire to win the 2003 Major League Soccer Cup;

Whereas the San Jose Earthquakes achieved a 14–7–9 regular season record to finish first in the Major League Soccer Western Conference;

Whereas the San Jose Earthquakes finished an extraordinary season by overcoming injuries, adversity, and multiple-goal deficits to reach the Major League Soccer Cup championship match;

Whereas in the championship match, the San Jose Earthquakes and the Chicago Fire scored 6 goals combined, breaking the Major League Soccer Cup championship match scoring record;

Whereas head coach Frank Yallop led the San Jose Earthquakes to victory;

Whereas the San Jose Earthquakes is a team of world-class players, including Jeff Agoos, Arturo Alvarez, Brian Ching, Jon Conway, Ramiro Corrales, Troy Dayak, Dwayne De Rosario, Landon Donovan, Todd Dunivant, Ronnie Ekelund, Rodrigo Faria, Manny Lagos, Roger Levesque, Brain Mullan, Richard Mulrooney, Pat Onstad, Eddie Robinson, Chris Roner, Ian Russell, Josh Saunders, Craig Waibel, and Jamil Walker, all of whom contributed extraordinary performances throughout the regular season, playoffs and Major League Soccer Cup;

Whereas San Jose Earthquakes midfielder Ronnie Ekelund scored in the fifth minute of play, tying Eduardo Hurtado for the fastest goal scored in a Major League Soccer Cup championship match;

Whereas with the victory, San Jose Earthquakes captain Jeff Agoos won his second Major League Soccer Cup for the San Jose Earthquakes and his fifth Major League Soccer Cup overall;

Whereas San Jose Earthquakes forward Landon Donovan, who has been named United States National Team Player of the Year twice, scored 2 goals on 2 shots in the championship match, earning the Honda Major League Soccer Cup Most Valuable Player Award;

Whereas by winning the 2003 Major League Soccer Cup, the San Jose Earthquakes join DC United to become the second team in Major League Soccer history to win the Major League Soccer Cup more than once;

Whereas the San Jose Earthquakes have brought great pride to the City of San Jose and to the State of California;

Whereas Major League Soccer has become extremely popular in only 8 seasons; and

Whereas the success of Major League Soccer has contributed to the growing popularity of soccer in the United States in recent years: Now, therefore, be it

Resolved, That the Senate—

(1) congratulates the San Jose Earthquakes for winning the 2003 Major League Soccer Cup;

(2) recognizes the achievement of the players, coaches, staff, and supporters of the San Jose Earthquakes in bringing the 2003 Major League Soccer Cup to San Jose;

(3) commends the San Jose community for its enthusiastic support of the San Jose Earthquakes; and

(4) expresses the hope that Major League Soccer will continue to inspire fans and young players in the United States and around the world by producing teams of the high caliber of the San Jose Earthquakes.

PREVENT ALL CIGARETTE TRAFFICKING ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 241, S. 1177.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1177) to ensure the collection of all cigarette taxes, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment and an amendment to the title, as follows:

[Strike the part in black brackets and insert the part printed in italic.]

S. 1177

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

[SECTION 1. SHORT TITLE.

[This Act may be cited as the ''Prevent All Cigarette Trafficking Act'' or ''PACT Act''.

[SEC. 2. COLLECTION OF STATE CIGARETTE TAXES.

[(a) DEFINITIONS.—Section 1 of the Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the ''Jenkins Act''), is amended—

[(1) in paragraph (1), by inserting ''and other legal entities'' after ''individuals'';

[(2) by striking paragraph (3);

[(3) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively; and

[(4) by adding at the end the following new paragraphs:

[''(7) The term 'delivery sale' means any sale of cigarettes to a consumer if—

[''(A) the consumer submits the order for such sale by means of a telephone or other

method of voice transmission, the mails, or the Internet or other online service; or

''(B) the cigarettes are delivered by use of a common carrier.

''(8) The term 'common carrier' means any person (other than a local messenger service or the United States Postal Service (as defined in section 102 of title 39, United States Code)) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise, whether or not the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided, between a port or place and a port or place in the United States.''.

(b) REPORTS TO STATE TOBACCO TAX ADMINISTRATORS.—Section 2 of that Act (15 U.S.C. 376) is amended—

(1) in subsection (a)—

(A) by striking ''or transfers'' and inserting '', transfers, or ships''; and

(B) by striking ''to other than a distributor licensed by or located in such State,''; and

(2) in subsection (b)—

(A) by striking ''(1)''; and

(B) by striking '', and (2)'' and all that follows and inserting a period.

(c) REQUIREMENTS FOR DELIVERY SALES.—That Act is further amended by inserting after section 2 the following new section:

''SEC. 2A. (a) Each person making a delivery sale into a State shall comply with—

''(1) the shipping requirements set forth in subsection (b);

''(2) the recordkeeping requirements set forth in subsection (c); and

''(3) all laws of the State generally applicable to sales of cigarettes that occur entirely within the State, including laws imposing—

''(A) excise taxes;

''(B) sales taxes;

''(C) licensing and tax-stamping requirements; and

''(D) other payment obligations.

''(b)(1) Each person who takes a delivery sale order shall include on the bill of lading included with the shipping package containing cigarettes sold pursuant to such order a clear and conspicuous statement providing as follows: 'CIGARETTES: FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE AND SALES TAXES, AND COMPLIANCE WITH APPLICABLE LICENSING AND TAX-STAMPING OBLIGATIONS'.

''(2) Any shipping package described in paragraph (1) that is not labeled in accordance with that paragraph shall be treated as non-deliverable matter by common carriers.

''(c)(1) Each person making delivery sales into a State shall keep a record of all delivery sales so made, organized by State into which such delivery sales are so made.

''(2) Records of delivery sales shall be kept under paragraph (1) in the year in which made and for the next four years.

''(3) Records kept under paragraph (1) shall be made available to tobacco tax administrators of the States in order to ensure the compliance of persons making delivery sales with the requirements of this Act.

''(d) Each State shall have the authority to require any person making a delivery sale of cigarettes into such State—

''(1) to collect or pay the taxes referred to in subsection (a)(3); and

''(2) to provide evidence that the manufacturer of the cigarettes sold in such State is in compliance with all Federal, State, or local laws generally applicable to the sale or distribution of cigarettes.''.

(d) PENALTIES.—Section 3 of that Act (15 U.S.C. 377) is amended—

(1) by inserting ''(a)'' before ''Whoever'';

(2) in subsection (a), as so designated, by striking ''shall be guilty of a misdemeanor and shall be fined not more than $1,000, or imprisoned not more than 6 months'' and inserting ''shall be fined not more than $100,000, imprisoned not more than 2 years''; and

(3) by adding at the end the following new subsection:

''(b)(1) Whoever violates any provision of this Act shall be subject to a civil penalty in an amount not to exceed 2 percent of the gross sales of cigarettes of such person during the one-year period ending on the date of the violation.

''(2) A civil penalty under paragraph (1) for a violation of this Act is in addition to any criminal penalty under subsection (a) for the violation.''.

(e) INJUNCTIONS.—Section 4 of that Act (15 U.S.C. 378) is amended—

(1) by inserting ''(a)'' before ''The United States district courts''; and

(2) by adding at the end the following new subsections:

''(b)(1) A State, through its attorney general, or any person who holds a permit under section 5712 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of this Act by any person (or by any person controlling such person).

''(2) Nothing in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of State law.

''(c) The Attorney General, acting through the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, shall administer and enforce the provisions of this Act.''.

SEC. 3. TREATMENT OF CIGARETTES AS NONMAILABLE MATTER.

Section 1716 of title 18, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection (j):

''(j) The transmission in the mails of cigarettes (as that term is defined in section 2341(1) of this title) for purposes of sale is prohibited, and cigarettes for such purposes are nonmailable and shall not be deposited in or carried through the mails.''.

SEC. 4. PENAL PROVISIONS REGARDING TRAFFICKING IN CONTRABAND CIGARETTES.

(a) THRESHOLD QUANTITY FOR TREATMENT AS CONTRABAND.—(1) Section 2341(2) of title 18, United States Code, is amended by striking ''60,000 cigarettes'' and inserting ''10,000 cigarettes''.

(2) Section 2342(b) of that title is amended by striking ''60,000'' and inserting ''10,000''.

(3) Section 2343 of that title is amended—

(A) in subsection (a), by striking ''60,000'' and inserting ''10,000''; and

(B) in subsection (b), by striking ''60,000'' and inserting ''10,000''.

(b) RECORDKEEPING, REPORTING, AND INSPECTION.—Section 2343 of that title, as amended by subsection (a)(3) of this section, is further amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''only—'' and inserting ''such information as the Attorney General considers appropriate for purposes of enforcement of this chapter, including—''; and

(B) in the flush matter following paragraph (3), by striking the second sentence;

(2) by redesignating subsection (b) as subsection (c);

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

''(b) Any person who engages in a delivery sale, and who ships, sells, distributes, or receives any quantity in excess of 10,000 cigarettes within a single month, shall submit to the Attorney General, pursuant to rules or regulations prescribed by the Attorney General, a report that sets forth the following:

''(1) The person's beginning and ending inventory of cigarettes (in total) for such month.

''(2) The total quantity of cigarettes that the person received within such month from each other person (itemized by name and address).

''(3) The total quantity of cigarettes that the person distributed within such month to each person (itemized by name and address) other than a retail purchaser.''; and

(4) by adding at the end the following new subsections:

''(d) Any report required to be submitted under this chapter to the Attorney General shall also be submitted to the Secretary of the Treasury.

''(e) In this section:

''(1) The term 'delivery sale' means any sale of cigarettes to a consumer if—

''(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service; or

''(B) the cigarettes are delivered by use of a common carrier.

''(2) The term 'common carrier' means any person (other than a local messenger service or the United States Postal Service (as defined in section 102 of title 39, United States Code)) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise, whether or not the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided, between a port or place and a port or place in the United States.''.

(c) DISPOSAL OR USE OF FORFEITED CIGARETTES.—Section 2344(c) of that title is amended by striking ''seizure and forfeiture,'' and all that follows and inserting ''seizure and forfeiture, and any cigarettes so seized and forfeited shall be either—

''(1) destroyed and not resold; or

''(2) used for undercover investigative operations for the detection and prosecution of crimes, and then destroyed and not resold.''.

(d) ENFORCEMENT.—Section 2346 of that title is amended—

(1) by inserting ''(a)'' before ''The Attorney General''; and

(2) by adding at the end the following new subsection:

''(b) A State, through its attorney general, or any person who holds a permit under section 5712 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of this chapter by any person (or by any person controlling such person).''.

(e) CONFORMING AND CLERICAL AMENDMENTS.—(1) The section heading for section 2343 of that title is amended to read as follows:

''§ 2343. Recordkeeping, reporting, and inspection''.

(2) The table of sections at the beginning of chapter 114 of that title is amended by striking the item relating to section 2343 and inserting the following new item:

''2343. Recordkeeping, reporting, and inspection.''.

SEC. 5. COMPLIANCE WITH MODEL STATUTE OR QUALIFYING STATUTE.

(a) IN GENERAL.—An interstate tobacco seller may not sell in, deliver to, or place for delivery to a State that is a party to the

Master Settlement Agreement any cigarette manufactured by a Tobacco Product Manufacturer that is not in full compliance with the terms of the Model Statute or Qualifying Statute enacted by such State requiring funds to be placed into a qualified escrow account under specified conditions, or any regulations promulgated pursuant to such statute.

[(b) PENALTIES.—(1) Whoever shall knowingly and willfully violate subsection (a) shall be fined not more than $100,000, imprisoned not more than 2 years, or both.

[(2) Whoever shall violate subsection (a) shall be subject to a civil penalty in an amount not to exceed 2 percent of the gross sales of cigarettes of such person during the one-year period ending on the date of the violation.

[(3) A civil penalty under paragraph (2) for a violation of subsection (a) is in addition to any criminal penalty under paragraph (1) for the violation.

[(c) JURISDICTION TO PREVENT AND RESTRAIN VIOLATIONS.—(1) The United States district courts shall have jurisdiction to prevent and restrain violations of subsection (a).

[(2) A State, through its attorney general, or any person who holds a permit under section 5712 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of subsection (a) by any person (or by any person controlling such person).

[(3) Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of State law.

[(4) The Attorney General, acting through the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, shall administer and enforce subsection (a).

[(d) DEFINITIONS.—In this section:

[(1) MASTER SETTLEMENT AGREEMENT.—The term ''Master Settlement Agreement'' means the agreement executed November 23, 1998, by the Attorneys General of 46 States, the District of Columbia, the Commonwealth of Puerto Rico, and four Territories of the United States, on the one hand, and certain tobacco manufacturers on the other hand.

[(2) TOBACCO PRODUCT MANUFACTURER.—The term ''Tobacco Product Manufacturer'' has the meaning given that term in section II(uu) of the Master Settlement Agreement.

[(3) MODEL STATUTE; QUALIFYING STATUTE.—The terms ''Model Statute'' and ''Qualifying Statute'' means a statute as defined in section IX(d)(2)(e) of the Master Settlement Agreement.

[SEC. 6. UNDERCOVER CRIMINAL INVESTIGATIONS OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

[(a) IN GENERAL.—(1) Commencing as of the date of the enactment of this Act and without fiscal year limitation, the authorities in section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (title I of Public Law 102–395; 106 Stat. 1838) shall be available to the Bureau of Alcohol, Tobacco, Firearms, and Explosives for undercover investigative operations of the Bureau which are necessary for the detection and prosecution of crimes against the United States.

[(2) For purposes of the exercise of the authorities referred to in paragraph (1) by the Bureau, a reference in such section 102(b) to the Federal Bureau of Investigation shall be deemed to be a reference to the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and a reference to the Director of the Federal Bureau of Investigation shall be deemed to be a reference to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

[(b) LIMITATIONS IN APPROPRIATIONS ACTS.—The exercise of the authorities referred to in subsection (a)(1) by the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall be subject to the provisions of appropriations Acts.

[SEC. 7. INSPECTION BY BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES OF RECORDS OF CERTAIN CIGARETTE SELLERS.

[(a) IN GENERAL.—Any officer of the Bureau of Alcohol, Tobacco, Firearms and Explosives may, during normal business hours, enter the premises of any person described in subsection (b) for the purposes of inspecting—

[(1) any records or information required to be maintained by such person under the provisions of law referred to in subsection (c); or

[(2) any cigarettes kept or stored by such person at such premises.

[(b) COVERED PERSONS.—A person described in this subsection is any person who engages in a delivery sale, and who ships, sells, distributes, or receives any quantity in excess of 10,000 cigarettes within a single month.

[(c) COVERED PROVISIONS OF LAW.—The provisions of law referred to in this subsection are as follows:

[(1) The Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the ''Jenkins Act'').

[(2) Chapter 114 of title 18, United States Code.

[(3) This Act.

[(d) DELIVERY SALE DEFINED.—In this section, the term ''delivery sale'' has the meaning given that term in 2343(e)(1) of title 18, United States Code, as amended by section 4(b)(3) of this Act.

[SEC. 8. EFFECTIVE DATE.

[(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect 90 days after the date of the enactment of this Act.

[(b) ATFE AUTHORITY.—

[(1) IN GENERAL.—Sections 6 and 7 shall take effect on the date of the enactment of this Act.

[(2) DEFINITION.—For purposes of section 7, the definition of delivery sale in section 2343(e)(1) of title 18, United States Code, as amended by section 4(b)(3) of this Act, shall take effect on the date of the enactment of this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Prevent All Cigarette Trafficking Act'' or ''PACT Act''.

SEC. 2. COLLECTION OF STATE CIGARETTE AND SMOKELESS TOBACCO TAXES.

(a) DEFINITIONS.—Section 1 of the Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the ''Jenkins Act''), is amended—

(1) by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

''(1) The term 'attorney general', with respect to a State, means the attorney general or other chief law enforcement officer of the State, or the designee of that officer.

''(2) The term 'cigarette' means—

''(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco which is to be heated or burned;

''(B) any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A);

''(C) any roll of tobacco wrapped in any substance that because of its appearance, the type of tobacco used in the filler, or its packaging or labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

''(D) loose rolling tobacco that, because of its appearance, type, packaging, or labeling, is likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

''(3) The term 'smokeless tobacco' means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted.'';

(2) by striking paragraph (6) and inserting the following new paragraph (6):

''(6) The term 'delivery sale' means any sale of cigarettes or smokeless tobacco in interstate commerce to a consumer if—

''(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

''(B) the cigarettes or smokeless tobacco are delivered by use of a common carrier, private delivery service, or the mails, or the seller is not in the physical presence of the buyer when the buyer obtains personal possession of the delivered cigarettes or smokeless tobacco.''; and

(3) by adding at the end the following new paragraphs:

''(8) The term 'delivery seller' means a person who makes a delivery sale.

''(9) The term 'common carrier' means any person (other than a local messenger service or the United States Postal Service (as defined in section 102 of title 39, United States Code)) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise, whether or not the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided, between a port or place and a port or place in the United States.

''(10) The term 'interstate commerce' means commerce between a State and any place outside the State, commerce between a State and any Indian lands in the State, or commerce between points in the same State but though any place outside the State or through any Indian lands.

''(11) The term 'person' means an individual, corporation, company, association, firm, partnership, society, State government, local government, Indian tribal government, governmental organization of such government, or joint stock company.

''(12) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.''.

(b) REPORTS TO STATE TOBACCO TAX ADMINISTRATORS.—Section 2 of that Act (15 U.S.C. 376) is amended—

(1) by striking ''cigarettes'' each place it appears and inserting ''cigarettes or smokeless tobacco'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''or transfers'' and inserting '', transfers, or ships''; and

(ii) by striking ''to other than a distributor licensed by or located in such State,'';

(B) in paragraph (1), by inserting before the semicolon the following: '', as well as telephone numbers for each place of business, a principal electronic mail address, any website addresses, and the name, address, and telephone number of an agent in the State authorized to accept service on behalf of such person''; and

(C) in paragraph (2), by striking ''and the quantity thereof'' and inserting ''the quantity thereof, and the name, address, and phone number of the person delivering the shipment to the recipient on behalf of the delivery seller''; and

(3) in subsection (b)—

(A) by striking ''(1)''; and

(B) by striking '', and (2)'' and all that follows and inserting a period.

(c) REQUIREMENTS FOR DELIVERY SALES.—That Act is further amended by inserting after section 2 the following new section:

''SEC. 2A. (a) Each delivery seller shall comply with—

''(1) the shipping requirements set forth in subsection (b);

''(2) the recordkeeping requirements set forth in subsection (c);

''(3) all State and other laws generally applicable to sales of cigarettes or smokeless tobacco that occur entirely within the State, including laws imposing—

''(A) excise taxes;

''(B) sales taxes;

''(C) licensing and tax-stamping requirements; and

''(D) other payment obligations or legal requirements relating to the sale, distribution, or delivery of cigarettes or smokeless tobacco; and

''(4) the tax collection requirements set forth in subsection (d).

''(b)(1) Each delivery seller shall include on the bill of lading included with the shipping package containing cigarettes or smokeless tobacco sold pursuant to such order a clear and conspicuous statement providing as follows: 'CIGARETTES/SMOKELESS TOBACCO: FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE AND SALES TAXES, AND COMPLIANCE WITH APPLICABLE LICENSING AND TAX-STAMPING OBLIGATIONS'.

''(2) Any shipping package described in paragraph (1) that is not labeled in accordance with that paragraph shall be treated as non-deliverable matter by a common carrier or the United States Postal Service if the common carrier or the United States Postal Service, as the case may be, knows or should know the contents of the package.

''(c)(1) Each delivery seller shall keep a record of all delivery sales so made, including all of the information described in section 2(a)(2), organized by State into which such delivery sales are so made.

''(2) Records of delivery sales shall be kept under paragraph (1) in the year in which made and for the next four years.

''(3) Records kept under paragraph (1) shall be made available to tobacco tax administrators of the States, attorneys general of the States, and the Attorney General of the United States in order to ensure the compliance of persons making delivery sales with the requirements of this Act.

''(d) Unless the law of the State and place in which cigarettes or smokeless tobacco are delivered pursuant to a delivery sale in interstate commerce requires otherwise for the payment to the government of an excise tax imposed on the delivery sale, or provides, for delivery sales of smokeless tobacco, for the delivery seller to collect the excise tax from the consumer and remit the excise tax to the government, the cigarettes or smokeless tobacco may not be delivered to the buyer unless in advance of the delivery—

''(1) the excise tax has been paid to the government; and

''(2) any required stamps or other indicia that the excise tax has been paid are properly affixed or applied to the cigarettes or smokeless tobacco.

''(e)(1) Each State may compile a list of delivery sellers who are in compliance with this Act with respect to such State. If a State posts a list pursuant to this subsection that specifically refers to this subsection, no common carrier or other person may knowingly deliver cigarettes or smokeless tobacco to consumers in such State unless the delivery seller is on the list at the time of delivery.

''(2)(A) Each State may compile a list of delivery sellers who are not in compliance with this Act with respect to such State.

''(B) A State may provide such a list to a common carrier, the United States Postal Service, or other person. Such a list shall be confidential, and a common carrier, the United States Postal Service, or other person that receives such a list shall maintain the confidentiality of such list.

''(C) If a State provides such a list pursuant to this subsection that specifically refers to this subsection, no common carrier, the United States Postal Service, or other person may knowingly deliver any item to a consumer in such State for a delivery seller on such list unless the common carrier, the United States Postal Service, or person in good faith determines that the item does not include cigarettes or smokeless tobacco.

''(f) For purposes of this Act, a delivery sale shall be deemed to have occurred in the State and place where the buyer obtains personal possession of the cigarettes or smokeless tobacco, and a delivery pursuant to a delivery sale is deemed to have been initiated or ordered by the delivery seller.''.

(d) PENALTIES.—Section 3 of that Act (15 U.S.C. 377) is amended—

(1) by inserting ''(a)'' before ''Whoever'';

(2) in subsection (a), as so designated, by striking ''shall be guilty of a misdemeanor and shall be fined not more than $1,000, or imprisoned not more than 6 months'' and inserting ''shall be guilty of a felony, fined under subchapter C of chapter 227 of title 18, imprisoned not more than three years, or both''; and

(3) by adding at the end the following new subsection:

''(b)(1) Whoever violates any provision of this Act shall be subject to a civil penalty in an amount not to exceed the greater of—

''(A) $5,000 in the case of the first violation, or $10,000 for any other violation; or

''(B) for any violation, 2 percent of the gross sales of cigarettes or smokeless tobacco of such person during the one-year period ending on the date of the violation.

''(2) A civil penalty under paragraph (1) for a violation of this Act is in addition to any criminal penalty under subsection (a) for the violation.''.

(e) ENFORCEMENT.—Section 4 of that Act (15 U.S.C. 378) is amended—

(1) by inserting ''(a)'' before ''The United States district courts'';

(2) in subsection (a), as so designated, by inserting before the period the following: '', and to provide other appropriate injunctive or equitable relief, including money damages, for such violations''; and

(3) by adding at the end the following new subsections:

''(b)(1) A State, through its attorney general, or any person who holds a permit under section 5712 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of this Act by any person (or by any person controlling such person).

''(2) A State, through its attorney general, may in a civil action under this Act obtain any other appropriate relief for violations of this Act by any person (or from any person controlling such person), including civil penalties, money damages, and injunctive or other equitable relief.

''(3) The remedies available under paragraphs (1) and (2) are in addition to any other remedies available under Federal, State, or other law.

''(4) Nothing in this Act shall be construed to prohibit an authorized State official from proceeding in State court, or taking other enforcement actions, on the basis of an alleged violation of State or other law.

''(c) The Attorney General shall administer and enforce the provisions of this Act.

''(d)(1) Any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 who commences a civil action under paragraph (1) shall inform the Attorney General of the United States of the action.

''(2) It is the sense of Congress that any attorney general of a State who commences a civil action under paragraph (1) or (2) should inform the Attorney General of the United States of the action.

''(e) The Attorney General of the United States shall make available to the public information about all actions under subsection (a), and the resolution of such actions, including by posting such information on the Internet and by other means.''.

SEC. 3. TREATMENT OF CIGARETTES AND SMOKELESS TOBACCO AS NONMAILABLE MATTER.

Section 1716 of title 18, United States Code, is amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i) the following new subsection (j):

''(j) The transmission in the mails of any tobacco product, including cigarettes (as that term is defined in section 1(2) of the Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the 'Jenkins Act')) and smokeless tobacco (as that term is defined in section 1(3) of that Act), is prohibited, and tobacco products are nonmailable and shall not be deposited in or carried through the mails.''.

SEC. 4. PENAL PROVISIONS REGARDING TRAFFICKING IN CONTRABAND CIGARETTES OR SMOKELESS TOBACCO.

(a) THRESHOLD QUANTITY FOR TREATMENT AS CONTRABAND CIGARETTES.—(1) Section 2341(2) of title 18, United States Code, is amended by striking ''60,000 cigarettes'' and inserting ''10,000 cigarettes''.

(2) Section 2342(b) of that title is amended by striking ''60,000'' and inserting ''10,000''.

(3) Section 2343 of that title is amended—

(A) in subsection (a), by striking ''60,000'' and inserting ''10,000''; and

(B) in subsection (b), by striking ''60,000'' and inserting ''10,000''.

(b) CONTRABAND SMOKELESS TOBACCO.—(1) Section 2341 of that title is amended—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

''(6) the term 'smokeless tobacco' means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted; and

''(7) the term 'contraband smokeless tobacco' means a quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, that are in the possession of any person other than—

''(A) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as manufacturer of tobacco products or as an export warehouse proprietor, a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311, 1555), or an agent of such person;

''(B) a common carrier transporting such smokeless tobacco under a proper bill of lading or freight bill which states the quantity, source, and designation of such smokeless tobacco;

''(C) a person who—

''(i) is licensed or otherwise authorized by the State where such smokeless tobacco is found to engage in the business of selling or distributing tobacco products; and

''(ii) has complied with the accounting, tax, and payment requirements relating to such license or authorization with respect to such smokeless tobacco; or

''(D) an officer, employee, or agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of a State), having possession of such smokeless tobacco in connection with the performance of official duties.''.

(2) Section 2342(a) of that title is amended by inserting ''or contraband smokeless tobacco'' after ''contraband cigarettes''.

(3) Section 2343(a) of that title is amended by inserting '', or any quantity of smokeless tobacco in excess of 500 single-unit consumer-sized

cans or packages,'' before ''in a single transaction''.

(4) Section 2344(c) of that title is amended by inserting ''or contraband smokeless tobacco'' after ''contraband cigarettes''.

(5) Section 2345 of that title is amended by inserting ''or smokeless tobacco'' after ''cigarettes'' each place it appears.

(c) RECORDKEEPING, REPORTING, AND INSPECTION.—Section 2343 of that title, as amended by this section, is further amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''only—'' and inserting ''such information as the Attorney General considers appropriate for purposes of enforcement of this chapter, including—''; and

(B) in the flush matter following paragraph (3), by striking the second sentence;

(2) by redesignating subsection (b) as subsection (c);

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

''(b) Any person who engages in a delivery sale, and who ships, sells, or distributes any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, within a single month, shall submit to the Attorney General, pursuant to rules or regulations prescribed by the Attorney General, a report that sets forth the following:

''(1) The person's beginning and ending inventory of cigarettes and cans or packages of smokeless tobacco (in total) for such month.

''(2) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person received within such month from each other person (itemized by name and address).

''(3) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person distributed within such month to each person (itemized by name and address) other than a retail purchaser.''; and

(4) by adding at the end the following new subsections:

''(d) Any report required to be submitted under this chapter to the Attorney General shall also be submitted to the Secretary of the Treasury and to the attorneys general and the tax administrators of the States from where the shipments, deliveries, or distributions both originated and concluded.

''(e) In this section, the term 'delivery sale' means any sale of cigarettes or smokeless tobacco in interstate commerce to a consumer if—

''(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or by any other means where the consumer is not in the same physical location as the seller when the purchase or offer of sale is made; or

''(B) the cigarettes or smokeless tobacco are delivered by use of the mails, common carrier, private delivery service, or any other means where the consumer is not in the same physical location as the seller when the consumer obtains physical possession of the cigarettes or smokeless tobacco.

''(f) In this section, the term 'interstate commerce' means commerce between a State and any place outside the State, commerce between a State and any Indian lands in the State, or commerce between points in the same State but through any place outside the State or though any Indian lands.''.

(d) DISPOSAL OR USE OF FORFEITED CIGARETTES AND SMOKELESS TOBACCO.—Section 2344(c) of that title, as amended by this section, is further amended by striking ''seizure and forfeiture,'' and all that follows and inserting ''seizure and forfeiture, and any cigarettes or smokeless tobacco so seized and forfeited shall be either—

''(1) destroyed and not resold; or

''(2) used for undercover investigative operations for the detection and prosecution of crimes, and then destroyed and not resold.''.

(e) ENFORCEMENT.—Section 2346 of that title is amended—

(1) by inserting ''(a)'' before ''The Attorney General''; and

(2) by adding at the end the following new subsection:

''(b)(1) A State, through its attorney general, or any person who holds a permit under section 5712 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of this chapter by any person (or by any person controlling such person).

''(2) A State, through its attorney general, may in a civil action under paragraph (1) also obtain any other appropriate relief for violations of this chapter from any person (or by any person controlling such person), including civil penalties, money damages, and injunctive or other equitable relief.

''(3) The remedies under paragraphs (1) and (2) are an addition to any other remedies under Federal, State, or other law.

''(4) Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court, or taking other enforcement actions, on the basis of an alleged violation of State or other law.''.

(f) CONFORMING AND CLERICAL AMENDMENTS.—(1) The section heading for section 2343 of that title is amended to read as follows:

''§ 2343. Recordkeeping, reporting, and inspection''.

(2) The table of sections at the beginning of chapter 114 of that title is amended by striking the item relating to section 2343 and inserting the following new item:

''2343. Recordkeeping, reporting, and inspection.''.

(3)(A) The heading for chapter 114 of that title is amended to read as follows:

''CHAPTER 114—TRAFFICKING IN CONTRABAND CIGARETTES AND SMOKELESS TOBACCO''.

(B) The table of chapters at the beginning of part I of that title is amended by striking the item relating to section 114 and inserting the following new item:

''114. Trafficking in contraband cigarettes and smokeless tobacco ..... 2341''.

SEC. 5. COMPLIANCE WITH MODEL STATUTE OR QUALIFYING STATUTE.

(a) IN GENERAL.—An interstate tobacco seller may not sell in, deliver to, or place for delivery sale in a State that is a party to the Master Settlement Agreement any cigarette manufactured by a Tobacco Product Manufacturer that is not in full compliance with the terms of the Model Statute or Qualifying Statute enacted by such State requiring funds to be placed into a qualified escrow account under specified conditions, or any regulations promulgated pursuant to such terms.

(b) PENALTIES.—(1) Whoever shall knowingly and willfully violate subsection (a) shall be fined not more than $100,000, imprisoned not more than 2 years, or both.

(2) Whoever shall violate subsection (a) shall be subject to a civil penalty in an amount not to exceed 2 percent of the gross sales of cigarettes of such person during the one-year period ending on the date of the violation.

(3) A civil penalty under paragraph (2) for a violation of subsection (a) is in addition to any criminal penalty under paragraph (1) for the violation and in addition to any other damages or relief available under law.

(c) JURISDICTION TO PREVENT AND RESTRAIN VIOLATIONS.—(1) The United States district courts shall have jurisdiction to prevent and restrain violations of subsection (a).

(2) A State, through its attorney general, or any person who holds a permit under section 5712 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of subsection (a) by any person (or by any person controlling such person).

(3) A State, through its attorney general, may in a civil action against any person violating subsection (a) obtain any appropriate relief for violations of this section from any person (or by any person controlling such person), including civil penalties, money damages, and injunctive or other equitable relief.

(4) The remedies available under paragraphs (2) and (3) are in addition to any other remedies available under Federal, State, or other law.

(5) Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court or taking other enforcement actions on the basis of an alleged violation of State or other law.

(6) The Attorney General shall administer and enforce subsection (a).

(d) DEFINITIONS.—In this section:

(1) MASTER SETTLEMENT AGREEMENT.— The term ''Master Settlement Agreement'' means the agreement executed November 23, 1998, by the Attorneys General of 46 States, the District of Columbia, the Commonwealth of Puerto Rico, and four Territories of the United States, on the one hand, and certain tobacco manufacturers on the other hand.

(2) TOBACCO PRODUCT MANUFACTURER.—The term ''Tobacco Product Manufacturer'' has the meaning given that term in section II(uu) of the Master Settlement Agreement.

(3) MODEL STATUTE; QUALIFYING STATUTE.— The terms ''Model Statute'' and ''Qualifying Statute'' means a statute as defined in section IX(d)(2)(e) of the Master Settlement Agreement.

(4) DELIVERY SALE.—The term ''delivery sale'' means any sale of cigarettes or smokeless tobacco in interstate commerce to a consumer if—

(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

(B) the cigarettes or smokeless tobacco are delivered by use of a common carrier, private delivery service, or the mails, or the seller is not in the physical presence of the buyer when the buyer obtains personal possession of the delivered cigarettes or smokeless tobacco.

(5) INTERSTATE COMMERCE.—The term ''interstate commerce'' means commerce between a State and any place outside the State, commerce between a State and any Indian lands in the State, or commerce between points in the same State but through any place outside the State or through any Indian lands.

SEC. 6. UNDERCOVER CRIMINAL INVESTIGATIONS OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

(a) IN GENERAL.—(1) Commencing as of the date of the enactment of this Act and without fiscal year limitation, the authorities in section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (title I of Public Law 102–395; 106 Stat. 1838) shall be available to the Bureau of Alcohol, Tobacco, Firearms, and Explosives for undercover investigative operations of the Bureau which are necessary for the detection and prosecution of crimes against the United States.

(2) For purposes of the exercise of the authorities referred to in paragraph (1) by the Bureau, a reference in such section 102(b) to the Federal Bureau of Investigation shall be deemed to be a reference to the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and a reference to the Director of the Federal Bureau of Investigation shall be deemed to be a reference to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

(b) LIMITATIONS IN APPROPRIATIONS ACTS.—The exercise of the authorities referred to in

subsection (a)(1) by the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall be subject to the provisions of appropriations Acts.

SEC. 7. INSPECTION BY BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES OF RECORDS OF CERTAIN CIGARETTE AND SMOKELESS TOBACCO SELLERS.

(a) IN GENERAL.—Any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives may, during normal business hours, enter the premises of any person described in subsection (b) for the purposes of inspecting—

(1) any records or information required to be maintained by such person under the provisions of law referred to in subsection (d); or

(2) any cigarettes or smokeless tobacco kept or stored by such person at such premises.

(b) COVERED PERSONS.—A person described in this subsection is any person who engages in a delivery sale, and who ships, sells, distributes, or receives any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, within a single month.

(c) RELIEF.—(1) The district courts of the United States shall have the authority in a civil action under this subsection to compel inspections authorized by subsection (a).

(2) Whoever violates subsection (a) or an order issued pursuant to paragraph (1) shall be subject to a civil penalty in an amount not to exceed $10,000 for each violation.

(d) COVERED PROVISIONS OF LAW.—The provisions of law referred to in this subsection are as follows:

(1) The Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the ''Jenkins Act'').

(2) Chapter 114 of title 18, United States Code.

(3) This Act.

(e) DELIVERY SALE DEFINED.—In this section, the term ''delivery sale'' has the meaning given that term in 2343(e)(1) of title 18, United States Code, as amended by section 4(b)(3) of this Act.

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect 90 days after the date of the enactment of this Act.

(b) BATFE AUTHORITY.—

(1) IN GENERAL.—Sections 6 and 7 shall take effect on the date of the enactment of this Act.

(2) DEFINITION.—For purposes of section 7, the definition of delivery sale in section 2343(e)(1) of title 18, United States Code, as amended by section 4(b)(3) of this Act, shall take effect on the date of the enactment of this Act.

Amend the title so as to read: ''A bill to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.''.

Mr. LEAHY. Mr. President, I am pleased that today the Senate is taking up and passing the Prevent All Cigarette Trafficking, PACT, Act, S. 1177. I commend Chairman HATCH and Senator KOHL for introducing this legislation and thank them for working with me, among others, to craft the compromise language that we will consider today to crack down on the growing problem of cigarette smuggling, both interstate and international, as well as to address the connection between cigarette smuggling activities and terrorist funding. I am proud to join Senator HATCH, Senator KOHL and others as a cosponsor of the underlying bill.

I also thank the National Association of Attorneys General and the Campaign for Tobacco-Free Kids, for working with us and contributing to the substitute language. I want to say a special thanks to Vermont Attorney General Bill Sorrell, who also serves as the current Chair of the NAAG Tobacco Committee, for his valuable input on the problems with cigarette smuggling that States are facing and his support for this compromise measure. I also want to thank the Vermont Grocers Association, the Vermont Retail Association, the Vermont Association of Chiefs of Police, and the National Conference of State Legislatures for their support for this measure.

The movement of cigarettes from low-tax areas to high-tax areas in order to avoid the payment of taxes when the cigarettes are resold has become a public health problem in recent years. As State after State chooses to raise its tobacco excise taxes as a means of reducing tobacco use and as a source of revenue, many smokers have sought cheaper means by which to purchase cigarettes. Smokers can often purchase cigarettes and tobacco from remote sellers, Internet or mail order at substantial discounts due to avoidance of State taxes. These sellers, however, are evading their tax obligations because they neither collect nor pay the proper State and local excise taxes for cigarette and other tobacco product sales.

We have the ability to dramatically reduce smuggling without imposing undue burdens on manufacturers or law abiding citizens. By reducing smuggling, we will also increase government revenues by minimizing tax avoidance. My friend General Sorrell has told me that this has become a rapidly growing problem in Vermont as more and more tobacco product manufacturers fail to collect and pay cigarette taxes. Criminals are getting away with smuggling and not paying tobacco taxes because of weak punishments, products that are often poorly labeled, the lack of tax stamps and the inability of the current distribution system to track sales from State to State. These lapses point to a need for uniform rules governing group sales to individuals.

The PACT Act will give States the authority to collect millions of dollars in lost State tax revenue resulting from online and other remote sales of cigarette and smokeless tobacco. It also ensures that every tobacco retailer, whether a brick-and-mortar or remote retailer of tobacco products, play by the same rules by equalizing the tax burdens.

Moreover, the PACT Act gives States the authority necessary to enforce the Jenkins Act, a law passed in 1949, which requires cigarette vendors to report interstate sales of cigarettes. This legislation enhances States' abilities to collect all excise taxes and verify the deposit of all required escrow payments for cigarette and smokeless tobacco sales in interstate commerce, including internet sales. In addition, it provides Federal and State law enforcement with additional resources to enforce State tobacco excise tax laws.

Finally, at the request of the National Association of attorneys general and many State attorneys general, we have added a new section to provide the States with authority to enforce the Imported Cigarette Compliance Act to crack down on international tobacco smuggling. This additional authority should further reduce tax evasion and eliminate a lucrative funding source for terrorist organizations.

We must not turn a blind eye to the problem of illegal tobacco smuggling. Those who smuggle cigarettes are criminals. I look forward to the Senate approving the bipartisan PACT Act today to close the loopholes that allow cigarette smuggling to continue. I urge the leaders of the House to follow our lead and pass this legislation.

Mr. KOHL. Mr. President, the proceeds of cigarette smuggling from low tax States has developed into a popular means of generating revenue for organized crime and even terrorist organizations. A recent investigation by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, BATFE, disrupted a smuggling scheme between North Carolina and Michigan, where the revenue generated was being funneled to Hezbollah, a terrorist organization. It is evident that the consequences of permitting this behavior to continue unchecked cannot be underestimated.

To make matters worse, this problem is on the rise. According to the BATFE, 10 cigarette smuggling cases were initiated in 1998. That has grown to approximately 160 in 2002.

Moreover, the sale of tobacco products over the Internet facilitates the avoidance of State cigarette taxes, denying States the ability to collect tax dollars they are owed—money the States need now more than ever.

The PACT Act take a commonsense approach to addressing these problems. It increases penalties, provides more tools for enforcement, and closes loopholes in current law. These moderate, but important, changes will further enable Federal, State, local, and tribal officials to crack down on tobacco smugglers and ensure that Internet tobacco sellers pay applicable taxes.

Despite being passed unanimously by the Judiciary Committee, some raised concerns over the legislation, particularly with respect to its effect on Indian Tribal sovereignty. After intensive negotiations with numerous interested parties, including the Campaign for Tobacco Free Kids, the National Association of Attorneys General, the Department of Justice and various tribal groups, we have been able to craft language that will achieve the goals we set out to attain—to put an end to both cigarette trafficking and tobacco tax avoidance—while leaving the important principles of Indian Tribal sovereignty unaffected.

Tobacco companies and antitobacco groups, State law enforcement and Federal law enforcement, and Republicans and Democrats all agree that this is an issue begging to be addressed. Today, we begin to provide the relevant law enforcement authorities

with the tools they need to put an end to these dangerous practices.

Mr. FRIST. Mr. President, I ask unanimous consent that the Hatch amendment, which is at the desk, be agreed to; that the committee substitute amendment, as amended, be agreed to; that the bill, as amended, be read the third time and passed; that the title amendment be agreed to; that the motions to reconsider be laid upon the table, en bloc; and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 2231) was agreed to.

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

The committee amendment in the nature of a substitute, as amended, was agreed to.

The title amendment was agreed to.

The bill (S. 1177), as amended, was read the third time and passed, as follows:

S. 1177

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Prevent All Cigarette Trafficking Act'' or ''PACT Act''.

SEC. 2. COLLECTION OF STATE CIGARETTE AND SMOKELESS TOBACCO TAXES.

(a) DEFINITIONS.—Section 1 of the Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the ''Jenkins Act''), is amended—

(1) by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

''(1) The term 'attorney general', with respect to a State, means the attorney general or other chief law enforcement officer of the State, or the designee of that officer.

''(2) The term 'cigarette' means—

''(A) any roll of tobacco wrapped in paper or in any substance not containing tobacco which is to be heated or burned;

''(B) any roll of tobacco wrapped in any substance containing tobacco that, because of its appearance, the type of tobacco used in the filler, or its packaging or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (A);

''(C) any roll of tobacco wrapped in any substance that because of its appearance, the type of tobacco used in the filler, or its packaging or labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or

''(D) loose rolling tobacco that, because of its appearance, type, packaging, or labeling, is likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

''(3) The term 'smokeless tobacco' means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted.'';

(2) in paragraph (5)—

(A) by inserting '', local, or Tribal'' after ''the State'';

(B) by striking ''administer the cigarette tax law'' and inserting ''collect the tobacco tax or administer the tax law''; and

(C) by inserting '', locality, or Tribe, respectively'' after ''a State''.

(3) by striking paragraph (6) and inserting the following new paragraph (6):

''(6) The term 'delivery sale' means any sale of cigarettes or smokeless tobacco in interstate commerce to a consumer if—

''(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

''(B) the cigarettes or smokeless tobacco are delivered by use of a common carrier, private delivery service, or the mails, or the seller is not in the physical presence of the buyer when the buyer obtains personal possession of the delivered cigarettes or smokeless tobacco.''; and

(4) by adding at the end the following new paragraphs:

''(8) The term 'delivery seller' means a person who makes a delivery sale.

''(9) The term 'common carrier' means any person (other than a local messenger service or the United States Postal Service (as defined in section 102 of title 39, United States Code)) that holds itself out to the general public as a provider for hire of the transportation by water, land, or air of merchandise, whether or not the person actually operates the vessel, vehicle, or aircraft by which the transportation is provided, between a port or place and a port or place in the United States.

''(10) The term 'interstate commerce' means commerce between a State and any place outside the State, commerce between a State and any Indian lands in the State, or commerce between points in the same State but though any place outside the State or through any Indian lands.

''(11) The term 'person' means an individual, corporation, company, association, firm, partnership, society, State government, local government, Indian tribal government, governmental organization of such government, or joint stock company.

''(12) The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

''(13) The term 'Indian Country' has the meaning given that term in section 1151 of title 18, United States Code, except that within the State of Alaska that term applies only to the Metlakatla Indian Community, Annette Island Reserve.

''(14) The term 'Indian Tribe', 'Tribe', or 'Tribal' refers to an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (Public Law 103–454; 25 U.S.C. 479a–1).

''(15) The term 'tobacco tax administrator', in the case of a State, local, or Tribal government, means the official of the government duly authorized to collect the tobacco tax or administer the tax law of the government.''.

(b) REPORTS TO STATE TOBACCO TAX ADMINISTRATORS.—Section 2 of that Act (15 U.S.C. 376) is amended—

(1) by striking ''cigarettes'' each place it appears and inserting ''cigarettes or smokeless tobacco'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking ''or transfers'' and inserting '', transfers, or ships'';

(ii) by inserting '', locality, or Indian Country of an Indian Tribe'' after ''a State''; and

(iii) by striking ''to other than a distributor licensed by or located in such State,'';

(B) in paragraph (1)—

(i) by striking ''administrator of the State'' and inserting ''administrators of the State and place''; and

(ii) by striking ''; and'' and inserting the following: '', as well as telephone numbers for each place of business, a principal electronic mail address, any website addresses, and the name, address, and telephone number of an agent in the State authorized to accept service on behalf of such person;'';

(C) in paragraph (2), by striking ''and the quantity thereof.'' and inserting ''the quantity thereof, and the name, address, and phone number of the person delivering the shipment to the recipient on behalf of the delivery seller, with all invoice or memoranda information relating to specific customers to be organized by city or town and by zip code; and''; and

(D) by adding at the end the following new paragraph:

''(3) with respect to each memorandum or invoice filed with a State under paragraph (2), also file copies of such memorandum or invoice with the tobacco tax administrators and chief law enforcement officers of the local governments and Indian Tribes operating within the borders of the State that apply their own local or Tribal taxes on cigarettes or smokeless tobacco.''; and

(3) in subsection (b)—

(A) by striking ''(1)''; and

(B) by striking '', and (2)'' and all that follows and inserting a period.

(c) REQUIREMENTS FOR DELIVERY SALES.—That Act is further amended by inserting after section 2 the following new section:

''SEC. 2A. (a) With respect to delivery sales into a specific State and place, each delivery seller shall comply with—

''(1) the shipping requirements set forth in subsection (b);

''(2) the recordkeeping requirements set forth in subsection (c);

''(3) all State, local, Tribal, and other laws generally applicable to sales of cigarettes or smokeless tobacco as if such delivery sales occurred entirely within the specific State and place, including laws imposing—

''(A) excise taxes;

''(B) licensing and tax-stamping requirements; and

''(C) other payment obligations or legal requirements relating to the sale, distribution, or delivery of cigarettes or smokeless tobacco; and

''(4) the tax collection requirements set forth in subsection (d).

''(b)(1) Each delivery seller shall include on the bill of lading included with the shipping package containing cigarettes or smokeless tobacco sold pursuant to such order a clear and conspicuous statement providing as follows: 'CIGARETTES/SMOKELESS TOBACCO: FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE TAXES, AND COMPLIANCE WITH APPLICABLE LICENSING AND TAX-STAMPING OBLIGATIONS'.

''(2) Any shipping package described in paragraph (1) that is not labeled in accordance with that paragraph shall be treated as non-deliverable matter by a common carrier or the United States Postal Service if the common carrier or the United States Postal Service, as the case may be, knows or should know the contents of the package.

''(c)(1) Each delivery seller shall keep a record of all delivery sales so made, including all of the information described in section 2(a)(2), organized by the State, and within such State, by the city or town and by zip code, into which such delivery sales are so made.

''(2) Records of delivery sales shall be kept under paragraph (1) in the year in which made and for the next four years.

''(3) Records kept under paragraph (1) shall be made available to tobacco tax administrators of the States, to local governments and Indian Tribes that apply their own local or Tribal taxes on cigarettes or smokeless tobacco, to the attorneys general of the States,

to the chief law enforcement officers of such local governments and Indian Tribes, and to the Attorney General of the United States in order to ensure the compliance of persons making delivery sales with the requirements of this Act.

''(d)(1) Except as provided in paragraph (2), no cigarettes or smokeless tobacco may be delivered pursuant to a delivery sale in interstate commerce unless in advance of the delivery—

''(A) any cigarette or smokeless tobacco excise tax that is imposed by the State in which the cigarettes or smokeless tobacco are to be delivered has been paid to the State;

''(B) any cigarette or smokeless tobacco excise tax that is imposed by the local government of the place in which the cigarette or smokeless tobacco are to be delivered has been paid to the local government; and

''(C) any required stamps or other indicia that such excise tax has been paid are properly affixed or applied to the cigarettes or smokeless tobacco.

''(2) Paragraph (1) does not apply to a delivery sale of smokeless tobacco if the law of the State or local government of the place where the smokeless tobacco is to be delivered requires or otherwise provides that delivery sellers collect the excise tax from the consumer and remit the excise tax to the State or local government, and the delivery seller complies with the requirement.

''(e)(1) Each State, and each local government or Indian Tribal government that levies a tax subject to subsection (a)(3), may compile a list of delivery sellers who are in compliance with this Act with respect to such State, locality, or Indian Tribe. If a State, local government, or Indian Tribe posts a list pursuant to this subsection that specifically refers to this subsection, no common carrier or other person may knowingly deliver cigarettes or smokeless tobacco to consumers in such State or locality or in the Indian Country of such Indian Tribe unless the delivery seller is on the list at the time of delivery.

''(2)(A) Each State, and each local government or Indian Tribal government that levies a tax subject to subsection (a)(3), may compile a list of delivery sellers who are not in compliance with this Act with respect to such State, locality, or Indian Tribe.

''(B) A State, locality, or Indian Tribal government may provide such a list to a common carrier, the United States Postal Service, or other person. Such a list shall be confidential, and a common carrier, the United States Postal Service, or other person that receives such a list shall maintain the confidentiality of such list.

''(C) If a State, local government, or Indian Tribal government provides such a list pursuant to this subsection that specifically refers to this subsection, no common carrier, the United States Postal Service, or other person may knowingly deliver any item to a consumer in such State or locality or in the Indian Country of such Indian Tribe for a delivery seller on such list unless the common carrier, the United States Postal Service, or person in good faith determines that the item does not include cigarettes or smokeless tobacco.

''(f) For purposes of this Act, a delivery sale shall be deemed to have occurred in the State and place where the buyer obtains personal possession of the cigarettes or smokeless tobacco, and a delivery pursuant to a delivery sale is deemed to have been initiated or ordered by the delivery seller.''.

(d) PENALTIES.—Section 3 of that Act (15 U.S.C. 377) is amended—

(1) by inserting ''(a)'' before ''Whoever'';

(2) in subsection (a), as so designated—

(A) by inserting ''(except for a State, local, or Tribal government)'' after ''this Act''; and

(B) by striking ''shall be guilty of a misdemeanor and shall be fined not more than $1,000, or imprisoned not more than 6 months'' and inserting ''shall be guilty of a felony, fined under subchapter C of chapter 227 of title 18, United States Code, imprisoned not more than three years, or both''; and

(3) by adding at the end the following new subsection:

''(b)(1) Whoever violates any provision of this Act shall be subject to a civil penalty in an amount not to exceed the greater of—

''(A) $5,000 in the case of the first violation, or $10,000 for any other violation; or

''(B) for any violation, 2 percent of the gross sales of cigarettes or smokeless tobacco of such person during the one-year period ending on the date of the violation.

''(2) A civil penalty under paragraph (1) for a violation of this Act is in addition to any criminal penalty under subsection (a) for the violation.''.

(e) ENFORCEMENT.—Section 4 of that Act (15 U.S.C. 378) is amended—

(1) by inserting ''(a)'' before ''The United States district courts'';

(2) in subsection (a), as so designated, by inserting before the period the following: '', and to provide other appropriate injunctive or equitable relief, including money damages, for such violations''; and

(3) by adding at the end the following new subsections:

''(b) The Attorney General of the United States shall administer and enforce the provisions of this Act.

''(c)(1)(A) A State, through its attorney general (or a designee thereof), or a local government or Indian Tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer (or a designee thereof), may bring an action in the United States district courts to prevent and restrain violations of this Act by any person (or by any person controlling such person) or to obtain any other appropriate relief from any person (or from any person controlling such person) for violations of this Act, including civil penalties, money damages, and injunctive or other equitable relief.

''(B) Nothing in this Act shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian Tribe against any unconsented lawsuit under this Act, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian Tribe.

''(2) A State, through its attorney general, or a local government or Indian Tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer (or a designee thereof), may provide evidence of a violation of this Act by any person not subject to State, local, or Tribal government enforcement actions for violations of this Act to the Attorney General of the United States or a United State Attorney, who shall take appropriate actions to enforce the provisions of this Act.

''(3)(A) Notwithstanding any other provision of law and subject to subparagraph (B), an amount equal to 50 percent of any criminal and civil penalties collected by the United States Government in enforcing the provisions of this Act shall be available to the Department of Justice for purposes of enforcing the provisions of this Act and other laws relating to contraband tobacco products.

''(B) Of the amount available to the Department under subparagraph (A), not less than 50 percent shall be made available only to the agencies and offices within the Department that were responsible for the enforcement actions in which the penalties concerned were imposed.

''(4) The remedies available under this subsection are in addition to any other remedies available under Federal, State, local, Tribal, or other law.

''(5) Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

''(6) Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian Tribal government official to proceed in Tribal court, or take other enforcement actions, on the basis of an alleged violation of Tribal law.

''(7) Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

''(d) Any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 may bring an action in the United States district courts to prevent and restrain violations of this Act by any person (or by any person controlling such person) other than a State, local, or Tribal government.

''(e)(1) Any person who commences a civil action under subsection (d) shall inform the Attorney General of the United States of the action.

''(2) It is the sense of Congress that any attorney general of a State, or chief law enforcement officer of a locality or Tribe, who commences a civil action under this section should inform the Attorney General of the United States of the action.

''(f)(1) The Attorney General of the United States shall make available to the public, by posting such information on the Internet and by other means, information about all enforcement actions undertaken by the Attorney General or United States Attorneys, or reported to the Attorney General, under this section, including information on the resolution of such actions and, in particular, information on how the Attorney General and the United States Attorney have responded to referrals of evidence of violations pursuant to subsection (b)(2).

''(2) The Attorney General shall submit to Congress each year a report containing the information described in paragraph (1).''.

SEC. 3. TREATMENT OF CIGARETTES AND SMOKELESS TOBACCO AS NONMAILABLE MATTER.

Section 1716 of title 18, United States Code, is amended—

(1) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(2) by inserting after subsection (i) the following new subsection (j):

''(j)(1) Except as provided in paragraph (2), the transmission in the mails of any tobacco product, including cigarettes (as that term is defined in section 1(2) of the Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the 'Jenkins Act')) and smokeless tobacco (as that term is defined in section 1(3) of that Act), is prohibited, and tobacco products are nonmailable and shall not be deposited in or carried through the mails.

''(2) Paragraph (1) shall apply only to States that are contiguous with at least one other State of the United States.''.

SEC. 4. PENAL PROVISIONS REGARDING TRAFFICKING IN CONTRABAND CIGARETTES OR SMOKELESS TOBACCO.

(a) THRESHOLD QUANTITY FOR TREATMENT AS CONTRABAND CIGARETTES.—(1) Section 2341(2) of title 18, United States Code, is amended by striking ''60,000 cigarettes'' and inserting ''10,000 cigarettes''.

(2) Section 2342(b) of that title is amended by striking ''60,000'' and inserting ''10,000''.

(3) Section 2343 of that title is amended—

(A) in subsection (a), by striking ''60,000'' and inserting ''10,000''; and

(B) in subsection (b), by striking ''60,000'' and inserting ''10,000''.

(b) CONTRABAND SMOKELESS TOBACCO.—(1) Section 2341 of that title is amended—

(A) in paragraph (4), by striking ''and'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

''(6) the term 'smokeless tobacco' means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted;

''(7) the term 'contraband smokeless tobacco' means a quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, that are in the possession of any person other than—

''(A) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as manufacturer of tobacco products or as an export warehouse proprietor, a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311, 1555), or an agent of such person;

''(B) a common carrier transporting such smokeless tobacco under a proper bill of lading or freight bill which states the quantity, source, and designation of such smokeless tobacco;

''(C) a person who—

''(i) is licensed or otherwise authorized by the State where such smokeless tobacco is found to engage in the business of selling or distributing tobacco products or, for smokeless tobacco found in Indian Country, is licensed or otherwise authorized by the Tribal government of such Indian Country to account for and pay smokeless tobacco taxes imposed by the Tribal government; and

''(ii) has complied with the accounting, tax, and payment requirements relating to such license or authorization with respect to such smokeless tobacco; or

''(D) an officer, employee, or agent of the United States or a State or a Tribe, or any department, agency, or instrumentality of the United States, a State (including any political subdivision of a State), or a Tribe (including any political subdivision of a Tribe), having possession of such smokeless tobacco in connection with the performance of official duties;''.

(2) Section 2342(a) of that title is amended by inserting ''or contraband smokeless tobacco'' after ''contraband cigarettes''.

(3) Section 2343(a) of that title is amended by inserting '', or any quantity of smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages,'' before ''in a single transaction''.

(4) Section 2344(c) of that title is amended by inserting ''or contraband smokeless tobacco'' after ''contraband cigarettes''.

(5) Section 2345 of that title is amended by inserting ''or smokeless tobacco'' after ''cigarettes'' each place it appears.

(c) ADDITIONAL DEFINITIONAL MATTERS.—Section 2341 of such title is further amended—

(1) in paragraph (2), as amended by subsection (a)(1) of this section—

(A) in the matter preceding subparagraph (A), by striking ''State cigarette taxes in the State where such cigarettes are found, if the State'' and inserting ''State, local, or Tribal cigarette taxes in the State, locality, or Indian Country where such cigarettes are found, if the State, local or Tribal government'';

(B) in subparagraph (C)(i), by inserting before the semicolon the following: '', or, for cigarettes found in Indian County, is licensed or otherwise authorized by the Tribal government of such Indian Country to account for and pay cigarette taxes imposed by the Tribal government''; and

(C) in subparagraph (D)—

(i) by inserting ''or a Tribe'' after ''a State'' the first place it appears; and

(ii) by striking ''or a State (or any political subdivision of a State)'' and inserting '', a State (or any political subdivision of a State), or a Tribe (including any political subdivision of a Tribe)'';

(2) in paragraph (3), by inserting before the semicolon the following: '', or, for a carrier making a delivery entirely within Indian Country, under equivalent operating authority from the Indian Tribal government of such Indian Country''; and

(3) by adding at the end the following new paragraphs:

''(8) the term 'Indian Country' has the meaning given that term in section 1151 of title 18, United States Code, except that within the State of Alaska that term applies only to the Metlakatla Indian Community, Annette Island Reserve; and

''(9) the term 'Indian Tribe', 'Tribe', or 'Tribal' refers to an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (Public Law 103–454; 25 U.S.C. 479a–1).''.

(d) RECORDKEEPING, REPORTING, AND INSPECTION.—Section 2343 of that title, as amended by this section, is further amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''only—'' and inserting ''such information as the Attorney General considers appropriate for purposes of enforcement of this chapter, including—''; and

(B) in the flush matter following paragraph (3), by striking the second sentence;

(2) by redesignating subsection (b) as subsection (c);

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

''(b) Any person who engages in a delivery sale, and who ships, sells, or distributes any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, within a single month, shall submit to the Attorney General, pursuant to rules or regulations prescribed by the Attorney General, a report that sets forth the following:

''(1) The person's beginning and ending inventory of cigarettes and cans or packages of smokeless tobacco (in total) for such month.

''(2) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person received within such month from each other person (itemized by name and address).

''(3) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person distributed within such month to each person (itemized by name and address) other than a retail purchaser.''; and

(4) by adding at the end the following new subsections:

''(d) Any report required to be submitted under this chapter to the Attorney General shall also be submitted to the Secretary of the Treasury and to the attorneys general and the tax administrators of the States from where the shipments, deliveries, or distributions both originated and concluded, and to the chief law enforcement officer and tax administrator of the Tribe for shipments, deliveries or distributions that originated or concluded on the Indian Country of the Indian Tribe.

''(e) In this section, the term 'delivery sale' means any sale of cigarettes or smokeless tobacco in interstate commerce to a consumer if—

''(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or by any other means where the consumer is not in the same physical location as the seller when the purchase or offer of sale is made; or

''(B) the cigarettes or smokeless tobacco are delivered by use of the mails, common carrier, private delivery service, or any other means where the consumer is not in the same physical location as the seller when the consumer obtains physical possession of the cigarettes or smokeless tobacco.

''(f) In this section, the term 'interstate commerce' means commerce between a State and any place outside the State, commerce between a State and any Indian lands in the State, or commerce between points in the same State but through any place outside the State or though any Indian lands.''.

(e) DISPOSAL OR USE OF FORFEITED CIGARETTES AND SMOKELESS TOBACCO.—Section 2344(c) of that title, as amended by this section, is further amended by striking ''seizure and forfeiture,'' and all that follows and inserting ''seizure and forfeiture, and any cigarettes or smokeless tobacco so seized and forfeited shall be either—

''(1) destroyed and not resold; or

''(2) used for undercover investigative operations for the detection and prosecution of crimes, and then destroyed and not resold.''.

(f) EFFECT ON STATE, LOCAL, AND TRIBAL LAW.—Section 2345 of that title is amended—

(1) in subsection (a), by striking ''a State to enact and enforce'' and inserting ''a State, local government, or Tribe to enact and enforce its own''; and

(2) in subsection (b), by striking ''of States, through interstate compact or otherwise, to provide for the administration of State'' and inserting ''of State, local, or Tribal governments, through interstate compact or otherwise, to provide for the administration of State, local, or Tribal''.

(g) ENFORCEMENT.—Section 2346 of that title is amended—

(1) by inserting ''(a)'' before ''The Attorney General''; and

(2) by adding at the end the following new subsection:

''(b)(1) A State, through its attorney general, a local government or Indian Tribe, through its chief law enforcement officer (or a designee thereof), or any person who holds a permit under section 5712 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of this chapter by any person (or by any person controlling such person), except that any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 may not bring such an action against a State, local, or Tribal government.

''(2) A State, through its attorney general, or a local government or Indian Tribe, through its chief law enforcement officer (or a designee thereof), may in a civil action under paragraph (1) also obtain any other appropriate relief for violations of this chapter from any person (or by any person controlling such person), including civil penalties, money damages, and injunctive or other equitable relief. Nothing in this chapter shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian Tribe against any unconsented lawsuit under this chapter, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian Tribe.

''(3) The remedies under paragraphs (1) and (2) are an addition to any other remedies under Federal, State, local, Tribal, or other law.

''(4) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

''(5) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian Tribal government official to proceed in Tribal court, or take other enforcement actions, on the basis of an alleged violation of Tribal law.

''(6) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.''.

(h) CONFORMING AND CLERICAL AMENDMENTS.—(1) The section heading for section 2343 of that title is amended to read as follows:

''§ 2343. Recordkeeping, reporting, and inspection''.

(2) The section heading for section 2345 of such title is amended to read as follows:

''§ 2345. Effect on State, Tribal, and local law''.

(3) The table of sections at the beginning of chapter 114 of that title is amended—

(A) by striking the item relating to section 2343 and inserting the following new item:

''2343. Recordkeeping, reporting, and inspection.'';

and

(B) by striking the item relating to section 2345 and insert the following new item:

''2345. Effect on State, Tribal, and local law.''.

(4)(A) The heading for chapter 114 of that title is amended to read as follows:

''CHAPTER 114—TRAFFICKING IN CONTRABAND CIGARETTES AND SMOKELESS TOBACCO''.

(B) The table of chapters at the beginning of part I of that title is amended by striking the item relating to section 114 and inserting the following new item:

''114. Trafficking in contraband cigarettes and smokeless tobacco ..... 2341''.

SEC. 5. COMPLIANCE WITH MODEL STATUTE OR QUALIFYING STATUTE.

(a) IN GENERAL.—A Tobacco Product Manufacturer or importer may not sell in, deliver to, or place for delivery sale, or cause to be sold in, delivered to, or placed for delivery sale in, a State that is a party to the Master Settlement Agreement any cigarette manufactured by a Tobacco Product Manufacturer that is not in full compliance with the terms of the Model Statute or Qualifying Statute enacted by such State requiring funds to be placed into a qualified escrow account under specified conditions, or any regulations promulgated pursuant to such terms.

(b) JURISDICTION TO PREVENT AND RESTRAIN VIOLATIONS.—(1) The United States district courts shall have jurisdiction to prevent and restrain violations of subsection (a) in accordance with this subsection.

(2) A State, through its attorney general, may bring an action in the United States district courts to prevent and restrain violations of subsection (a) by any person (or by any person controlling such person).

(3) In any action under paragraph (2), a State, through its attorney general, shall be entitled to reasonable attorney fees from a person found to have willfully and knowingly violated subsection (a).

(4) The remedy available under paragraph (2) is in addition to any other remedies available under Federal, State, or other law.

(5) Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court or taking other enforcement actions on the basis of an alleged violation of State or other law.

(6) The Attorney General may administer and enforce subsection (a).

(c) DEFINITIONS.—In this section:

(1) MASTER SETTLEMENT AGREEMENT.— The term ''Master Settlement Agreement'' means the agreement executed November 23, 1998, by the Attorneys General of 46 States, the District of Columbia, the Commonwealth of Puerto Rico, and four Territories of the United States, on the one hand, and certain tobacco manufacturers on the other hand.

(2) TOBACCO PRODUCT MANUFACTURER.—The term ''Tobacco Product Manufacturer'' has the meaning given that term in section II(uu) of the Master Settlement Agreement.

(3) IMPORTER.—The term ''importer'' means each of the following:

(A) Any person in the United States to whom non-tax-paid tobacco products manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned.

(B) Any person who removes cigars or cigarettes for sale or consumption in the United States from a customs bonded manufacturing warehouse.

(C) Any person who smuggles or otherwise unlawfully brings tobacco products into the United States.

(4) MODEL STATUTE; QUALIFYING STATUTE.— The terms ''Model Statute'' and ''Qualifying Statute'' means a statute as defined in section IX(d)(2)(e) of the Master Settlement Agreement.

(5) DELIVERY SALE.—The term ''delivery sale'' means any sale of cigarettes or smokeless tobacco in interstate commerce to a consumer if—

(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

(B) the cigarettes or smokeless tobacco are delivered by use of a common carrier, private delivery service, or the mails, or the seller is not in the physical presence of the buyer when the buyer obtains personal possession of the delivered cigarettes or smokeless tobacco.

(6) INTERSTATE COMMERCE.—The term ''interstate commerce'' means commerce between a State and any place outside the State, commerce between a State and any Indian lands in the State, or commerce between points in the same State but through any place outside the State or through any Indian lands.

SEC. 6. UNDERCOVER CRIMINAL INVESTIGATIONS OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

(a) IN GENERAL.—(1) Commencing as of the date of the enactment of this Act and without fiscal year limitation, the authorities in section 102(b) of the Department of Justice and Related Agencies Appropriations Act, 1993 (title I of Public Law 102–395; 106 Stat. 1838) shall be available to the Bureau of Alcohol, Tobacco, Firearms, and Explosives for undercover investigative operations of the Bureau which are necessary for the detection and prosecution of crimes against the United States.

(2) For purposes of the exercise of the authorities referred to in paragraph (1) by the Bureau, a reference in such section 102(b) to the Federal Bureau of Investigation shall be deemed to be a reference to the Bureau of Alcohol, Tobacco, Firearms, and Explosives, and a reference to the Director of the Federal Bureau of Investigation shall be deemed to be a reference to the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

(b) LIMITATIONS IN APPROPRIATIONS ACTS.—The exercise of the authorities referred to in subsection (a)(1) by the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall be subject to the provisions of appropriations Acts.

SEC. 7. INSPECTION BY BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES OF RECORDS OF CERTAIN CIGARETTE AND SMOKELESS TOBACCO SELLERS.

(a) IN GENERAL.—Any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives may, during normal business hours, enter the premises of any person described in subsection (b) for the purposes of inspecting—

(1) any records or information required to be maintained by such person under the provisions of law referred to in subsection (d); or

(2) any cigarettes or smokeless tobacco kept or stored by such person at such premises.

(b) COVERED PERSONS.—A person described in this subsection is any person who engages in a delivery sale, and who ships, sells, distributes, or receives any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, within a single month.

(c) RELIEF.—(1) The district courts of the United States shall have the authority in a civil action under this subsection to compel inspections authorized by subsection (a).

(2) Whoever violates subsection (a) or an order issued pursuant to paragraph (1) shall be subject to a civil penalty in an amount not to exceed $10,000 for each violation.

(d) COVERED PROVISIONS OF LAW.—The provisions of law referred to in this subsection are as follows:

(1) The Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the ''Jenkins Act'').

(2) Chapter 114 of title 18, United States Code.

(3) This Act.

(e) DELIVERY SALE DEFINED.—In this section, the term ''delivery sale'' has the meaning given that term in 2343(e)(1) of title 18, United States Code, as amended by section 4(b)(3) of this Act.

SEC. 8. COMPLIANCE WITH TARIFF ACT OF 1930.

(a) INAPPLICABILITY OF EXEMPTIONS FROM REQUIREMENTS FOR ENTRY OF CERTAIN CIGARETTES.—Subsection (b)(1) of section 802 of the Tariff Act of 1930 (19 U.S.C. 1681a) is amended by adding at the end the following new sentence: ''The preceding sentence shall not apply to any cigarettes sold in connection with a delivery sale (as that term is defined in section 1 of the Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the 'Jenkins Act')).''.

(b) STATE AND TRIBAL ACCESS TO CUSTOMS CERTIFICATIONS.—Section 802 of that Act is further amended by adding at the end the following new subsection:

''(d) STATE AND TRIBAL ACCESS TO CUSTOMS CERTIFICATIONS.—A State, through its attorney general, and an Indian tribe (as that term is defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) through its chief law enforcement officer, shall be entitled to obtain copies of any certification required pursuant to subsection (c) directly—

''(1) upon request to the agency of the United States responsible for collecting such certification; or

''(2) upon request to the importer, manufacturer, or authorized official of such importer or manufacturer.''.

(c) ENFORCEMENT PROVISIONS.—Section 803 of such Act (19 U.S.C. 1681b) is amended—

(1) in subsection (b)—

(A) in the first sentence—

(i) by inserting ''any of'' before ''the United States'' the first and second places it appears; and

(ii) by inserting before the period the following: '', to any State in which such tobacco product, cigarette papers, or tube was imported, or to the Indian Tribe of any Indian Country (as that term is defined in section 1151 of title 18, United States Code) in which such tobacco product, cigarette papers, or tube was imported''; and

(B) in the second sentence, by inserting '', or to any State or Indian Tribe,'' after ''the United States''; and

(2) by adding at the end the following new subsection:

''(c) ACTIONS BY STATES AND OTHERS.—

''(1) IN GENERAL.—Any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 may bring an action in the United States district courts to prevent and restrain violations of this title by any person (or by any person controlling such person), other than by a State, local, or Tribal government.

''(2) RELIEF FOR STATE, LOCAL, AND TRIBAL GOVERNMENTS.—A State, through its attorney general, or a local government or Tribe through its chief law enforcement officer (or a designee thereof), may in a civil action under this title to prevent and restrain violations of this title by any person (or by any person controlling such person) or to obtain any other appropriate relief for violations of this title by any person (or from any person controlling such person), including civil penalties, money damages, and injunctive or other equitable relief.

''(3) CONSTRUCTION GENERALLY.—

''(A) IN GENERAL.—Nothing in this subsection shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian Tribe against any unconsented lawsuit under this title or to otherwise restrict, expand, of modify any sovereign immunity of a State local government or Indian Tribe.

''(B) CONSTRUCTION WITH OTHER RELIEF.—The remedies available under this subsection are in addition to any other remedies available under Federal, State, local, Tribal, or other law.

''(4) CONSTRUCTION WITH FORFEITURE PROVISIONS.—Nothing in this subsection shall be construed to require a State or Indian Tribe to first bring an action pursuant to paragraph (1) when pursuing relief under subsection (b).

''(d) CONSTRUCTION WITH OTHER AUTHORITIES.—

''(1) STATE AUTHORITIES.—Nothing in this title shall be construed to expand, restrict, or otherwise modify the right of an authorized State official from proceeding in State court, or taking other enforcement actions, on the basis of alleged violation of State or other law.

''(2) TRIBAL AUTHORITIES.—Nothing in this title shall be construed to expand, restrict, or otherwise modify the right of an authorized Indian Tribal government official from proceeding in Tribal court, or taking other enforcement actions, on the basis of alleged violation of Tribal law.

(d) INCLUSION OF SMOKELESS TOBACCO.—(1) Sections 802 and 803(a) of such Act are further amended by inserting ''or smokeless tobacco products'' after ''cigarettes'' each place it appears.

(2) Section 802 of such Act is further amended—

(A) in subsection (a)—

(i) in paragraph (1), by inserting ''or section 4 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4403), respectively'' after ''section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a)'';

(ii) in paragraph (2), by inserting ''or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), respectively,'' after ''section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333)''; and

(iii) in paragraph (3), by inserting ''or section 3(c) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402(c)), respectively,'' after ''section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333(c))'';

(B) in subsection (b)—

(i) in the paragraph caption of paragraph (1), by inserting ''OR SMOKELESS TOBACCO'' after ''CIGARETTES''; and

(ii) in the paragraph caption of paragraphs (2) and (3), by inserting ''OR SMOKELESS TOBACCO'' after ''CIGARETTES''; and

(C) in subsection (c)—

(i) in the subsection caption, by inserting ''OR SMOKELESS TOBACCO'' after ''CIGARETTE'';

(ii) in paragraph (1), by inserting ''or section 4 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4403), respectively'' after ''section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a)'';

(iii) in paragraph (2)(A), ''or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), respectively,'' after ''section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333)''; and

(iv) in paragraph (2)(B), by inserting ''or section 3(c) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402(c)), respectively'' after ''section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333(c))''.

(3) Section 803(c) of such Act, as amended by subsection (b)(1) of this section, is further amended by inserting '', or any smokeless tobacco product,'' after ''or tube'' the first place it appears.

(4)(A) The heading of title VIII of such Act is amended by inserting ''**AND SMOKELESS TOBACCO**'' after ''**CIGARETTES**''.

(B) The heading of section 802 of such Act is amended by inserting ''**AND SMOKELESS TOBACCO**'' after ''**CIGARETTES**''.

SEC. 9. EXCLUSIONS REGARDING INDIAN TRIBES AND TRIBAL MATTERS.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act is intended nor shall be construed to affect, amend, or modify—

(1) any agreements, compacts, or other intergovernmental arrangements between any State or local government and any government of an Indian tribe (as that term is defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) relating to the collection of taxes on cigarettes or smokeless tobacco sold in Indian Country (as that term is defined section 1151 of title 18, United States Code);

(2) any State laws that authorize or otherwise pertain to any such intergovernmental arrangements or create special rules or procedures for the collection of State, local, or tribal taxes on cigarettes or smokeless tobacco sold in Indian Country;

(3) any limitations under existing Federal law, including Federal common law and treaties, on State, local, and tribal tax and regulatory authority with respect to the sale, use, or distribution of cigarettes and smokeless tobacco by or to Indian Tribes or tribal members or in Indian Country;

(4) any existing Federal law, including Federal common law and treaties, regarding State jurisdiction, or lack thereof, over any Tribe, tribal members or tribal reservations; and

(5) any existing State or local government authority to bring enforcement actions against persons located in Indian Country.

(b) COORDINATION OF LAW ENFORCEMENT.—Nothing in this Act or the amendments made by this Act shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by 1 or more States or other jurisdictions, including Indian Tribes, through interstate compact or otherwise, that—

(1) provides for the administration of tobacco product laws or laws pertaining to interstate sales or other sales of tobacco products;

(2) provides for the seizure of tobacco products or other property related to a violation of such laws; or

(3) establishes cooperative programs for the administration of such laws.

(c) TREATMENT OF STATE AND LOCAL GOVERNMENTS.—Notwithstanding any other provision of this Act, the provisions of this Act are not intended and shall not be construed to authorize, deputize, or commission States or local governments as instrumentalities of the United States.

(d) ENFORCEMENT WITHIN INDIAN COUNTRY.—Nothing in this Act or the amendments made by this Act is intended to prohibit, limit, or restrict enforcement by the Attorney General of the United States of the provisions herein within Indian Country.

(e) AMBIGUITY.—Any ambiguity between the language of this section or its application, and any other provision of this Act shall be resolved in favor of this section.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect 90 days after the date of the enactment of this Act.

(b) BATFE AUTHORITY.—

(1) IN GENERAL.—Sections 6 and 7 shall take effect on the date of the enactment of this Act.

(2) DEFINITION.—For purposes of section 7, the definition of delivery sale in section 2343(e)(1) of title 18, United States Code, as amended by section 4(b)(3) of this Act, shall take effect on the date of the enactment of this Act.

Passed the Senate December 9, 2003.

MAKING FURTHER CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.J. Res. 82, making technical corrections to the continuing resolution. I further ask unanimous consent that the joint resolution be read the third time and passed and the motion to reconsider be laid upon the table.

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

The joint resolution (H.J. Res. 82) was read the third time and passed.

FUNDING TO ASSIST IN MEETING OFFICIAL EXPENSES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 282, submitted earlier today by Senator STEVENS.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 282) providing the funding to assist in meeting the official expenses of a preliminary meeting relative to the formation of a United States Senate-China interparliamentary group.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to this resolution be printed in the RECORD.

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

The resolution (S. Res. 282) was agreed to, as follows:

S. RES. 282

Resolved, That—

(1) there is authorized within the contingent fund of the Senate under the appropriation account ''MISCELLANEOUS ITEMS'' $75,000 for fiscal year 2004 to assist in meeting the official expenses of a preliminary meeting relative to the formation of a United States Senate-China interparliamentary group including travel, per diem, conference room expenses, hospitality expenses, and food and food-related expenses;

(2) such expenses shall be paid on vouchers to be approved by the President pro tempore of the Senate; and

(3) the Secretary of the Senate is authorized to advance such sums as necessary to carry out this resolution.

PROTECTING CHILDREN FROM INDECENT PROGRAMMING

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration S. Res. 283, a sense-of-the-Senate resolution submitted earlier today by Senator SESSIONS.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 283) affirming the need to protect children in the United States from indecent programming.

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

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motions 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 resolution (S. Res. 283) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 283

Whereas millions of people in the United States are increasingly concerned with the patently offensive television and radio programming being sent into their homes;

Whereas millions of families in the United States are particularly concerned with the adverse impact of this programming on children;

Whereas indecent and offensive programming is contributing to a dramatic coarsening of civil society of the United States;

Whereas the Federal Communications Commission is charged with enforcing standards of decency in broadcast media;

Whereas the Federal Communications Commission established a standard defining what constitutes indecency in the declaratory order In the Matter of a Citizen's Complaint Against Pacifica Foundation Station WBAI(FM), 56 F.C.C.2d 94 (1975) (referred to in this Resolution as the ''Pacifica order'');

Whereas the Federal Communications Commission has not used all of its available authority to impose penalties on broadcasters that air indecent material even when egregious and repeated violations have been found in the cases of WKRK–FM, Detroit, MI, File No. EB–02–IH–0109 (Apr. 3, 2003) and WNEW–FM, New York, New York, EB–02–IH–0685 (Sept. 30, 2003).

Whereas the standard established in the Pacifica order focuses on protecting children from exposure to indecent language;

Whereas the standard established in the Pacifica order was upheld as constitutional by the United States Supreme Court in Federal Communications Commission v. Pacifica Foundation, 438 U.S. 726 (1978);

Whereas the Enforcement Bureau of the Federal Communications Commission has refused to sanction the airing of indecent language during the broadcast of the Golden Globe Awards, at a time when millions of children were in the potential audience; and

Whereas as of December 2003, an application for review is pending before the Federal Communications Commission, requesting that the full Commission review that decision of the Enforcement Bureau: Now, therefore, be it

(1) the Federal Communications Commission should return to vigorously and expeditiously enforcing its own United States Supreme Court-approved standard for indecency in broadcast media, as established in the declaratory order In the Matter of a Citizen's Complaint Against Pacifica Foundation Station WBAI(FM), 56 F.C.C.2d 94 (1975);

(2) the Federal Communications Commission should reassert its responsibility as defender of the public interest by undertaking new and serious efforts to sanction broadcast licensees that refuse to adhere to the standard established in that order;

(3) the Federal Communications Commission should make every reasonable and lawful effort to protect children from the degrading influences of indecent programming;

(4) The Federal Communications Commission should use all of its available authority to protect the public from indecent broadcasts including: (1) the discretion to impose fines up to a statutory maximum for each separate ''utterance'' or ''material'' found to be indecent; and (2) the initiation of license revocation proceedings for repeated violations of its indecency rules;

(5) The Federal Communications Commission should resolve all indecency complaints expeditiously; and should consider reviewing such companies at the full Commission level; and

(6) The Federal Communications Commission should aggressively investigate and enforce all indecency allegations.

THE CHANGING NATURE OF THE HOUSE SPEAKERSHIP: THE CANNON CENTENARY CONFERENCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 345 which is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 345) authorizing the printing as a House document of the transcripts of the proceedings of ''The Changing Nature of the House Speakership: The Cannon Centenary Conference,'' sponsored by the Congressional Research Service on November 12, 2003.

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

Mr. FRIST. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 345) was agreed to.

DEATH OF SENATOR PAUL SIMON

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 281, a sense-of-the-Senate resolution submitted earlier today by Senators FITZGERALD, DURBIN, myself, and Senator DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 281) relative to the death of the Honorable Paul Simon, a former Senator from the State of Illinois.

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

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

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

The resolution (S. Res. 281) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 281

Whereas the Honorable Paul Simon at the age of 19 became the nation's youngest editor-publisher when he accepted a Lion's Club challenge to save the Troy Tribune in Troy, Illinois, and built a chain of 13 newspapers in southern and central Illinois;

Whereas the Honorable Paul Simon used his newspaper to expose criminal activities, and in 1951, at age 22, was called as a key witness to testify before the U.S. Senate's Crime Investigating Committee;

Whereas the Honorable Paul Simon served in the Illinois legislature for 14 years, winning the Independent Voters of Illinois' ''Best Legislator Award'' every session;

Whereas the Honorable Paul Simon was elected lieutenant governor in 1968 and was the first in Illinois' history to be elected to that post with a governor of another party;

Whereas the Honorable Paul Simon served Illinois in the United States House of Representatives and the United States Senate with devotion and distinction;

Whereas the Honorable Paul Simon is the only individual to have served in both the Illinois House of Representatives and the Illinois Senate, and the U.S. House of Representatives and U.S. Senate.

Whereas the Honorable Paul Simon was the founder and director of the Public Policy Institute at Southern Illinois University in Carbondale, Illinois, and taught there for more than six years in the service of the youth of our Nation;

Whereas the Honorable Paul Simon wrote over 20 books and held over 50 honorary degrees;

Whereas the Honorable Paul Simon was an unapologetic champion of the less fortunate and a constant example of caring and honesty in public service;

Whereas his efforts on behalf of Illinoisans and all Americans earned him the esteem and high regard of his colleagues; and

Whereas his tragic death has deprived his State and Nation of an outstanding lawmaker and public servant: Now, therefore, be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Paul Simon, a former Senator from the State of Illinois.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the deceased former Senator.

ORDERS FOR TUESDAY, JANUARY 20, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn sine die under the provisions of H. Con. Res. 339. I further ask consent that when the Senate returns on Tuesday, January 20, as provided under H.J. Res. 80, it reconvene at 12 noon. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day and the Senate then resume consideration of the conference report to accompany H.R. 2673, the omnibus appropriations language; provided that the time until 12:30 p.m. be equally divided between the chairman and ranking member of the Appropriations Committee or their designees for debate only. I further ask consent that the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly party luncheons. I further ask consent that the time from 2:15 p.m. to 2:50 p.m. be equally divided in the aforementioned manner with the time from 2:50 p.m. to 3 p.m. equally divided between the two leaders or their designees for debate only; provided that at 3 p.m. the Senate proceed to a cloture vote on the conference report as provided under the previous order.

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

PROGRAM

Mr. FRIST. Mr. President, the Senate will convene the second session of the 108th Congress on Tuesday, January 20, 2004. When the Senate reconvenes, we will begin and resume debate on the omnibus appropriations conference report. Earlier today, I filed a cloture motion on that conference report. That vote will occur at 3 p.m. on Tuesday, January 20. That vote will be the first vote of the second session. It is my hope and expectation that cloture will be invoked and we will be able to complete action on the appropriations process early that day.

I want to wish everyone a happy and a safe holiday season. I again want to thank all of those people who support us in this Chamber in our day-to-day activities for all of their assistance throughout the year. From the pages to the clerks, the doorkeepers, the police men and women and everyone who is part of the Senate family, I do say thank you for your efforts in keeping this institution functioning.

Lastly, let me thank the Democratic leader for his assistance throughout the year. Although we have not always agreed on policy—as a matter of fact, we have disagreed frequently on policy—I believe we have been able to communicate forthrightly with one another. As they say, we agree to disagree. I appreciate the candor of all of those conversations. To all of the Members, I thank them for their cooperation throughout the year. I wish all of our colleagues and their families a very happy holiday.

ADJOURNMENT SINE DIE

Mr. FRIST. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the provisions of H. Con. Res. 339, and in accordance with S. Res. 281 as a further mark of respect for our deceased former colleague, Senator Paul Simon.

There being no objection, at 7:33 p.m., the Senate adjourned sine die.

NOMINATIONS

Executive nominations received by the Senate December 9, 2003:

DEPARTMENT OF THE TREASURY

SAMUEL W. BODMAN, OF MASSACHUSETTS, TO BE DEPUTY SECRETARY OF THE TREASURY, VICE KENNETH W. DAM, RESIGNED.

ROBERT JEPSON, OF GEORGIA, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR A TERM EXPIRING SEPTEMBER 14, 2008, VICE KAREN HASTIE WILLIAMS, TERM EXPIRED.

PAUL JONES, OF COLORADO, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR A TERM EXPIRING SEPTEMBER 14, 2008, VICE CHARLES L. KOLBE, TERM EXPIRED.

CHARLES L. KOLBE, OF IOWA, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 14, 2004, VICE STEVE H. NICKLES, RESIGNED.

DONALD KORB, OF OHIO, TO BE CHIEF COUNSEL FOR THE INTERNAL REVENUE SERVICE AND AN ASSISTANT GENERAL COUNSEL IN THE DEPARTMENT OF THE TREASURY, VICE B. JOHN WILLIAMS, JR.

BRIAN CARLTON ROSEBORO, OF NEW JERSEY, TO BE AN UNDER SECRETARY OF THE TREASURY, VICE PETER R. FISHER, RESIGNED.

DEPARTMENT OF LABOR

LISA KRUSKA, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR, VICE KATHLEEN M. HARRINGTON.

DEPARTMENT OF JUSTICE

LAFAYETTE COLLINS, OF TEXAS, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF TEXAS FOR THE TERM OF FOUR YEARS, VICE JACK O. DEAN.

THE JUDICIARY

PETER W. HALL, OF VERMONT, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE FRED I. PARKER, DECEASED.

JAMES L. ROBART, OF WASHINGTON, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF WASHINGTON, VICE THOMAS S. ZILLY, RETIRING.

DEPARTMENT OF JUSTICE

RONALD J. TENPAS, OF ILLINOIS, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF ILLINOIS FOR A TERM OF FOUR YEARS, VICE MIRIAM F. MIQUELON, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

TO BE LIEUTENANT GENERAL

MAJ. GEN. THOMAS L. BAPTISTE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 601:

TO BE LIEUTENANT GENERAL

MAJ. GEN. DONALD J. WETEKAM, 0000

DEPARTMENT OF COMMERCE

RHONDA KEENUM, OF MISSISSIPPI, TO BE ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICES, VICE MARIA CINO, RESIGNED.

CONFIRMATIONS

Executive Nominations Confirmed by the Senate December 9, 2003:

THE JUDICIARY

BRUCE E. KASOLD, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS FOR THE TERM PRESCRIBED BY LAW.

AFRICAN DEVELOPMENT FOUNDATION

EPHRAIM BATAMBUZE, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING FEBRUARY 9, 2008.

JOHN W. LESLIE, JR., OF CONNECTICUT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 2007.

DEPARTMENT OF LABOR

HOWARD RADZELY, OF MARYLAND, TO BE SOLICITOR FOR THE DEPARTMENT OF LABOR.

DEPARTMENT OF THE INTERIOR

DAVID WAYNE ANDERSON, OF MINNESOTA, TO BE AN ASSISTANT SECRETARY OF THE INTERIOR.

DEPARTMENT OF TRANSPORTATION

KARAN K. BHATIA, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF TRANSPORTATION.

METROPOLITAN WASHINGTON AIRPORTS AUTHORITY

CHARLES DARWIN SNELLING, OF PENNSYLVANIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY FOR THE REMAINDER OF THE TERM EXPIRING MAY 30, 2006.

DEPARTMENT OF STATE

EDWARD B. O'DONNELL, JR., OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ENVOY FOR HOLOCAUST ISSUES.

JON R. PURNELL, OF MASSACHUSETTS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF UZBEKISTAN.

MARGARET DEBARDELEBEN TUTWILER, OF ALABAMA, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY.

LOUISE V. OLIVER, OF THE DISTRICT OF COLUMBIA, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS THE UNITED STATES PERMANENT REPRESENTATIVE TO THE UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION.

WILLIAM J. HUDSON, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TUNISIA.

MARGARET SCOBEY, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SYRIAN ARAB REPUBLIC.

THOMAS THOMAS RILEY, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF MOROCCO.

JACKIE WOLCOTT SANDERS, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS UNITED STATES REPRESENTATIVE TO THE CONFERENCE ON DISARMAMENT AND THE SPECIAL REPRESENTATIVE OF

THE PRESIDENT OF THE UNITED STATES FOR NON-PROLIFERATION OF NUCLEAR WEAPONS.

MARY KRAMER, OF IOWA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BARBADOS AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ST. KITTS AND NEVIS, SAINT LUCIA, ANTIGUA AND BARBUDA, THE COMMONWEALTH OF DOMINICA, GRENADA, AND SAINT VINCENT AND THE GRENADINES.

TIMOTHY JOHN DUNN, OF ILLINOIS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS DEPUTY PERMANENT REPRESENTATIVE TO THE ORGANIZATION OF AMERICAN STATES.

JAMES CURTIS STRUBLE, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PERU.

INTER-AMERICAN DEVELOPMENT BANK

HECTOR E. MORALES, OF TEXAS, TO BE UNITED STATES ALTERNATE EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK.

DEPARTMENT OF STATE

MARGUERITA DIANNE RAGSDALE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF DJIBOUTI.

STUART W. HOLLIDAY, OF TEXAS, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

JENNIFER YOUNG, OF OHIO, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

MICHAEL O'GRADY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

RIXIO ENRIQUE MEDINA, OF OKLAHOMA, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS.

DEPARTMENT OF TRANSPORTATION

JEFFREY A. ROSEN, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF TRANSPORTATION.

CORPORATION FOR PUBLIC BROADCASTING

ELIZABETH COURTNEY, OF LOUISIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2010.

ELIZABETH COURTNEY, OF LOUISIANA, 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.

DEPARTMENT OF COMMERCE

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.

DEPARTMENT OF THE TREASURY

ARNOLD I. HAVENS, OF VIRGINIA, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF THE TREASURY.

OFFICE OF SPECIAL COUNSEL

SCOTT J. BLOCH, OF KANSAS, TO BE SPECIAL COUNSEL, OFFICE OF SPECIAL COUNSEL, FOR THE TERM OF FIVE YEARS.

FEDERAL DEPOSIT INSURANCE CORPORATION

THOMAS J. CURRY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM OF SIX YEARS.

FEDERAL HOUSING FINANCE BOARD

ALICIA R. CASTANEDA, OF THE DISTRICT OF COLUMBIA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2004.

ALICIA R. CASTANEDA, OF THE DISTRICT OF COLUMBIA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR A TERM EXPIRING FEBRUARY 27, 2011.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF STATE

DAVID C. MULFORD, OF ILLINOIS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO INDIA.

JAMES C. OBERWETTER, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SAUDI ARABIA.

EXPORT-IMPORT BANK OF THE UNITED STATES

JOSEPH MAX CLELAND, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR A TERM EXPIRING JANUARY 20, 2007.

APRIL H. FOLEY, OF NEW YORK, TO BE FIRST VICE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 20, 2005.

THE JUDICIARY

GEORGE W. MILLER, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR THE TERM OF FIFTEEN YEARS.

UNITED STATES SENTENCING COMMISSION

WILLIAM K. SESSIONS III, OF VERMONT, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2009.

DEPARTMENT OF JUSTICE

DAVID L. HUBER, OF KENTUCKY, TO BE UNITED STATES ATTORNEY FOR THE WESTERN DISTRICT OF KENTUCKY FOR THE TERM OF FOUR YEARS.

ELECTION ASSISTANCE COMMISSION

PAUL S. DEGREGORIO, OF MISSOURI, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM OF TWO YEARS.

GRACIA M. HILLMAN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM OF TWO YEARS.

RAYMUNDO MARTINEZ III, OF TEXAS, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM OF FOUR YEARS.

DEFOREST B. SOARIES, JR., OF NEW JERSEY, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR A TERM OF FOUR YEARS.

THE JUDICIARY

D. MICHAEL FISHER, OF PENNSYLVANIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT.

DEPARTMENT OF JUSTICE

JAMES B. COMEY, OF NEW YORK, TO BE DEPUTY ATTORNEY GENERAL.

FEDERICO LAWRENCE ROCHA, OF CALIFORNIA, TO BE UNITED STATES MARSHAL FOR THE NORTHERN DISTRICT OF CALIFORNIA FOR THE TERM OF FOUR YEARS.

THE JUDICIARY

LAWRENCE B. HAGEL, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS FOR THE TERM PRESCRIBED BY LAW.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DAVID EISNER, OF MARYLAND, TO BE CHIEF EXECUTIVE OFFICER OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

CAROL KINSLEY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2006.

NATIONAL MEDIATION BOARD

READ VAN DE WATER, OF NORTH CAROLINA, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR A TERM EXPIRING JULY 1, 2006.

DEPARTMENT OF LABOR

STEVEN J. LAW, OF THE DISTRICT OF COLUMBIA, TO BE DEPUTY SECRETARY OF LABOR.

WITHDRAWAL

Executive message transmitted by the President to the Senate on December 9, 2003, withdrawing from further Senate consideration the following nomination:

SUSAN C. SCHWAB, OF MARYLAND, TO BE DEPUTY SECRETARY OF THE TREASURY, WHICH WAS SENT TO THE SENATE ON JULY 17, 2003.

EXTENSIONS OF REMARKS

A TRIBUTE TO ROBERT AND KAY SCHATTNER AND THE JEWISH PRIMARY DAY SCHOOL

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. VAN HOLLEN. Mr. Speaker, I rise today to call the attention of the House of Representatives to the upcoming dedication of the new home in Washington, D.C. of the Jewish Primary Day School of the Nation's Capital (JPDS–NC) and to pay tribute to the contributions of Dr. Robert and Kay Schattner in enabling JPDS–NC to dedicate their new home.

On Sunday, December 21 JPDS–NC community will dedicate their new building at 6045 16th St., NW, Washington, DC. After a three year hiatus JPDS–NC has returned to Washington, DC. This makes JPDS–NC the only Jewish Day school in our Nation's Capital. JPDS–NC is an independent, pluralistic, coeducational Jewish day school for students in pre-kindergarten through sixth grade.

It is particularly fitting that this Jewish day school is moving to this address because this same building was constructed to be the home of the Hebrew Academy from 1951–1976. JPDS–NC will add greatly to the cultural richness and diversity of the Nation's Capital.

It is particularly pleasing to recognize and pay tribute to my constituents Robert and Kay Schattner's for helping make this new building possible. Their $2 million contribution to this school building facilitated JPDS–NC moving back into the District. When this building is dedicated later this month it will be named the Kay and Robert Schattner Center.

This generous contribution is not the first major charitable gift of the Schattners. Only last year the University of Pennsylvania School of Dental Medicine dedicated the Robert Schattner Center in Philadelphia.

The Schattner family has deep roots in the Metropolitan Washington area. Kay Schattner grew up in Washington, DC and once hosted a popular local radio program named ''Kay's Korner.'' Her work earned her the title of National Radio Star of the Year in 1959. She also worked for the Washington Daily News as a columnist.

Robert Schattner has had a distinguished career as a dentist, entrepreneur, and inventor. He developed the widely used throat spray, Chloraseptic as well as other medical products. He currently serves as president of Sporicidin International, a company which develops medical, dental and household antimicrobial products.

Mr. Speaker, Kay and Robert Schatttner are the type of civic minded couple that has made this country great. It is my honor to rise and pay tribute to their contribution which will allow a great educational institution to thrive in our Nation's Capital.

Mr. Speaker, I am submitting for the RECORD an article published on 9/11/03 in the Washington Jewish Week which announced the Schattner gift and the move of the JPDS–NC.

[From the Washington Jewish Week]

JPDS GETS $2 MILLION GIFT DONATION, IS BETHESDA COUPLE'S LARGEST TO JEWISH CAUSE

(By Teddy Kider)

Robert and Kay Schattner have had quite a year. Twenty minutes after students and officials of the Jewish Primary Day School of the Nation's Capital (JPDS–NC) raised the flag and hung mezuzot at their new home in the District last week, the Bethesda couple signed on to contribute $2 million to the facility, naming it the Kay and Robert Schattner Center.

The facility, the former Owl School on 16th Street N.W. in the District, provided JPDS–NC with its first permanent home in the District since the school became independent of Adas Israel Congregation in 1999.

''What interested us most is the school accommodates all sectors of Judaic affiliations and backgrounds,'' said Robert Schattner. ''You can be chasidic or Reform, and the school will take you and accommodate you.''

The Schattners' gift to JPDS–NC comes less than one year after the Nov. 1 dedication of the Robert Schattner Center at the University of Pennsylvania in Philadelphia.

The Schattners' contribution, the largest in the history of Penn's dental school, provided the campus with a $22 million, 70,000-square-foot building that connected two previously built structures and created the largest dental school facility in the United States. Robert Schattner is an alumnus of the dental school.

With the finishing touches still being completed in Philadelphia, the Schattners were reluctant to take on another project.

''We just have too many involvements,'' said Robert Schattner.

Last spring, the Schattners were approached by Lisa Silver, a friend who has three children at JPDS–NC and knew that the couple might want to contribute to a Jewish day school. Silver was initially turned down, but was persistent in showing the Schattners what JPDS–NC had to offer the community.

''I say this as a good thing: she's a great saleswoman,'' quipped Robert Schattner.

Eventually, the Schattners decided that providing funds for the 16th Street campus let them support a worthy cause while maintaining a minimal involvement with the already-completed building.

The $2 million gift fulfilled more than half of the JPDS–NC Coming Home Campaign's goal of $3.8 million, and will be used to support new programs like a prekindergarten and an Intergenerational Jewish Arts Program. A dedication ceremony will be held in November.

''We are so grateful to Kay and Robert Schattner for stepping forward with their $2 million lead gift to launch our Coming Home Campaign,'' said former president and chair of the campaign Margaret Hahn Stern. ''The first step is always the hardest, and we hope that many others will now be inspired to join the Schattners at whatever level they can afford. . . . Widespread participation in this campaign will firmly position our premiere Jewish day school in the nation's capital.''

The Schattners may have no previous ties to JPDS–NC, but they are deeply rooted in the Washington community.

Kay Schattner, who grew up in Washington, D.C., has a background in the media, having worked on a one-hour daily radio broadcast called ''Kay's Korner''from 1953 to 1961. The show earned her the title of National Radio Star of the Year in 1959.

She also worked for the Washington Daily News, writing the ''Gourmet Guide'' dining supplement from 1960 to 1969 and producing columns for the paper from 1960–1970.

A member of the Academy of Television Arts & Sciences and of American Women in Radio & Television, Kay Schattner also did interviews for Curtis Circulations, which enabled her to be the self-proclaimed ''only person to interview Robert Kennedy and Jimmy Hoffa in the same afternoon.''

Robert Schattner grew up in Bronx, N.Y., and earned a bachelor's degree in chemistry from the City University of New York before going to Penn's dentistry school.

While practicing dentistry in Queens, N.Y., he developed Chloraseptic, a throat spray. After 10 years in private practice, Schattner created The Chloraseptic Company and moved to the District, where he sold the revolutionary product to The Norwich Pharmacal Company.

Robert Schattner now serves as president of Sporicidin International, which develops medical, dental and household antimicrobial products, and he's been involved in several attempts to purchase sports teams in the area or move teams to the area.

Recently, Schattner introduced Masticide, a new product that treats mastitis, or the inflammation of a cow's utter, and is supposed to help farmers who annually lose about $3 billion due to mastitis in their herds.

While Robert Schattner has been honored for his work outside of the office by the Association for Physical and Mental Rehabilitation, the President's Committee for Physical and Mental Rehabilitation and the Columbia Lighthouse for the Blind, his wife has worked with numerous organizations to better the community, including heart, cancer and multiple sclerosis associations.

INTRODUCTION OF THE IDENTITY THEFT INVESTIGATION AND PROSECUTION ACT OF 2003

HON. ROBERT C. SCOTT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. SCOTT of Virginia. Mr. Speaker, today, I am introducing in the U.S. House of Representatives the ''Identity Theft Investigation and Prosecution Act of 2003'' with my colleagues Rep. HOWARD COBLE, the gentleman from North Carolina, Rep. JOHN CONYERS, the gentleman from Michigan, Rep. ED CASE, the gentleman from Hawaii, Rep. MARTIN FROST, the gentleman from Texas, Rep. BARNEY FRANK, the gentleman from Massachusetts, Rep. HOWARD BERMAN, the gentleman from California, Rep. JAN SCHAKOWSKY, the gentlewoman from Illinois, Rep. BARBARA LEE, the gentlewoman from California, and Rep. DENNIS KUCINICH, the gentleman from Ohio, as original cosponsors. This bill will address the issue of identity theft and fraud immediately by

providing the Department of Justice, DOJ, with resources specifically for that purpose.

With the advent of the Internet, identity theft has grown exponentially in recent years. The Federal Trade Commission, FTC, recently released a survey showing that 27.3 million Americans have been victims of identity theft in the last five years, including 9.9 million people in the last year alone. According to the release, last year's identity theft losses to businesses and financial institutions totaled nearly $48 billion, with consumer victims reporting $5 billion in out-of-pocket losses.

While most identity thieves use the information to make purchases, according to the FTC release, 15 percent of victims—almost 1.5 million people in the last year—reported that their personal information was misused in non-financial ways, such as to obtain government documents, for tax fraud, and other non-financial purposes. The most common nonfinancial misuse took place when the thief used the victim's name and identifying information upon routine stops by law enforcement officials, or while attempting or committing a crime. Identity theft prevention and detection can assist in preventing terrorism, as well.

The Identity Theft Investigation and Prosecution Act would provide 100 million dollars to the Department of Justice, DOJ, for dedicated enforcement of the laws against identity theft and credit card fraud. While states can enforce similar state laws, today's interstate travel, Internet and technology realities make it difficult and cumbersome for state prosecutors to effectively address national and international identity theft and credit card fraud scams.

We already have sufficient laws to address identity theft. It is a serious crime to use someone else's identity and credit to steal money, goods, services or to use the information to perpetuate other frauds. The problem is that there are not sufficient dedicated resources where they are most needed to have a significant immediate impact on the matter. We have developed the ''Identity Theft Investigation and Prosecution Act of 2003'' to do just that.

Much effort is underway to prevent and limit identity theft and fraud through consumer education, consumer hotlines, public service announcements, more sophisticated identity theft detection and cutoff mechanisms, law enforcement and consumer advocacy training, etc. Yet, it is not enough to effectively address the problem. Although credit card companies wipe out most credit card fraud debts for the victims, the thieves are rarely pursued or prosecuted. The DOJ devotes some resources and enforcement toward identity theft, but it is not a high priority in its law enforcement scheme to pursue enough cases to have an impact. Identity thieves know they can pursue their crimes with a high degree of impunity. This bill would enable the DOJ to establish a large, national enforcement program to go after identity theft and abuse.

INTRODUCTION OF THE CLEAN AIRWAVES ACT

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. OSE. Mr. Speaker, I rise to introduce the Clean Airwaves Act, legislation designed to prohibit seven profane words from being broadcast over America's airwaves. Existing guidelines and standards that govern our airwaves and communications mediums allow profane language to infiltrate the hearts and minds of our nation's youth. I rise today to protect our children from existing rules and regulations that leave them vulnerable to obscene, indecent, and profane speech through broadcast communication.

The purpose of the Clean Airwaves Act is to amend section 1464 of Title 18 of the United States Code from which the Federal Communications Commission derives its authority to regulate the use of profane language used in broadcast communications. This legislation will help close the loophole on profanity on our public airwaves, leaving our children free from exposure to offensive and crude speech broadcast over America's airwaves.

In FCC v. Pacifica Foundation, the U.S. Supreme Court stated, ''Among the reasons for specially treating indecent broadcasting is the uniquely pervasive presence that medium of expression occupies in the lives of our people. Broadcasts extend into the privacy of the home and it is impossible to completely avoid those that are patently offensive''. Subsequently, public broadcasting is more accessible to children.

The current FCC guidelines regarding indecency determinations aren't strong enough to stop harmful, indecent, and profane language broadcast over America's airwaves. It is wholly necessary to give the FCC the tools it needs in order to protect our broadcast airwaves. Currently under FCC policy, indecency determinations hinge on two factors. First, material must describe or depict sexual or excretory organs or activities. Second, the material must be patently offensive as measured by contemporary community standards for the broadcast medium. The vagueness of this stipulation creates a loophole that inevitably allows specific profane language to be broadcast.

One notorious example of a profane broadcast aired at the Golden Globe Awards program in January of 2003. In this broadcast, performer Bono uttered a phrase that may not be repeated at this time and qualified as indeed profane and indecent by a rational and normal standard. The FCC has in its authority, the power to enforce statutory and regulatory provisions restricting indecency and obscenity. However, in the Golden Globe Awards example, the FCC concluded that the use of the word as an adjective or expletive to emphasize an exclamation did not meet their threshold for indecency. The FCC further stated in the October 3, 2003 Memorandum Opinion and Order that ''in similar circumstances, we have found that offensive language used as an insult rather than as a description of sexual or excretory activity or organs is not within the scope of the commission's prohibition of indecent program content.'' As a result, the use of particular profane language was aired to the public and no action was taken to ensure it would not take place in the future.

Therefore, I reiterate the necessity to act upon this loophole in the U.S. Code to ensure that the public is free from inappropriate communications over public broadcasts and that our airwaves be clean of obscenity, indecency, and profanity.

GOOD NEIGHBOR SETTLEMENT HOUSE

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. ORTIZ. Mr. Speaker, I rise today to pay tribute to a very special organization in Brownsville, Texas: Good Neighbor Settlement House, a non-profit related to the Global Ministries of the United Methodist Church.

They have been serving the needy people in the Brownsville-South Texas area for 50 years, and I commend them for their longevity in doing the most important work neighbors can do: taking care of each other. December 11 marks their 50th anniversary, and their work will be celebrated in Cameron County.

Just last year, Good Neighbor Settlement House served meals to 57,000 men, women and children in our community. They provided a variety of services to over 100,000 people—including rental assistance, clothing, food, after-school programs, children's summer programs, and referrals to other social service agencies.

In 1953, with the guiding principle ''Helping People Help Themselves,'' Good Neighbor Settlement House launched themselves into the business of their mission: to provide the basic necessities of life such as food, clothing, meals, housing assistance and educational programs to the needy.

Just a few examples of their unique offering to the low-income families in Brownsville: the Mother's Club, a gathering of women who quilt to help supplement their income; family budgeting classes (with American Express) to help families maximize their resources and be self-sufficient; and Las Culturas (with Cameron Works/United Way) offers music and dance classes for young children.

In today's economy, our need for the Good Neighbor Settlement House is every bit as urgent as it was 50 years ago. Because of our government's reductions in social programs to help the needy—in favor of tax cuts to the wealthiest Americans—the less fortunate are facing ever more serious economic hardships.

Today we celebrate both Good Neighbor Settlement House's dedication to the less fortunate on this anniversary . . . and their commitment to the principle of giving people what they need to fend for themselves: if you give a man a fish, you feed him for a day—if you teach a man to fish, you feed him for a lifetime.

I ask my colleagues to join me in celebrating this 50th anniversary of Good Neighbor Settlement House's work in South Texas.

SEC. 115 OF THE ENERGY & WATER APPROPRIATIONS BILL—KING COVE ACCESS PROJECT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. GEORGE MILLER of California. Mr. Speaker, the Republicans have done it again: a nefarious rider was slipped onto the fiscal year 2004 Energy & Water Appropriations Bill. The Republicans have, once again, shut

Democrats out of the legislative process and provided neither an opportunity to debate the amendment, nor the chance to show this amendment for what it really is: an unacceptable invasion of our Nation's public lands and an assault on our public process. I oppose this clandestine.

The King Cove Access Project rider is an affront to our nation's environmental laws. Section 115 of the Energy & Water Appropriations Bill directs the construction of a road from the village of King Cove, Alaska through the sensitive Izembek National Wildlife Refuge and right to the boundary of the fragile and internationally significant Izembek Wilderness Area. The provision waives all environmental laws governing construction of such a road in the process. The amendment was not included in either the House or Senate bills.

Other government agencies have raised concerns about this project as part of the mandated inter-governmental coordinate. Congress dealt with this issue five years ago when I was the ranking member of the Resources Committee in the 105th Congress. The King Cove Access Project was defeated then and should have been defeated now.

In 1998, proponents attempted to add the provision to an appropriations bill but were not successful. A compromise was later reached with the King Cove Health and Safety Act which was included as Section 353 of Public Law 105–277, the Department of Transportation and Related Agencies Appropriations Act. The measure appropriated $40 million to address the access needs of the communities of King Cove and Cold Bay; however, the Act did not approve a road through the Izembek refuge or the Izembek Wilderness. In fact, the legislation specifically required that expenditure of the funds allocated in the bill ''must be in accordance with all other applicable laws.''

It is outrageous that five years after a satisfactory compromise was agreed upon, we must return to this issue.

The Izembek National Wildlife Refuge, on the Alaska Peninsula, is internationally recognized as one of the most important wetland reserves in the Northern Hemisphere. Home to threatened and endangered species, as well as millions of migratory birds, the Izembek National Wildlife Refuge and Izembek Wilderness are keys in the fight to conserve the natural diversity of wildlife populations and habitats.

The King Cove Access Project rider inappropriately short-circuits the public process. An administrative decision on a project to enhance marine-road access for the community of King Cove is proceeding in a timely manner and does not require intervention by Congress. However, the King Cove Access Project mandates one alternative in the EIS, thereby effectively ignoring the advice of the U.S. Fish & Wildlife Service, other federal agencies and the American public.

The King Cove Access Project ignores environmental laws, threatens important wildlife habitat and sets a dangerous anti-wilderness precedent. It is shameful that it was part of this legislation.

RECOGNIZING ST. HYACINTH BASILICA

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. EMANUEL. Mr. Speaker, on behalf of more than 111,000 of my constituents who are of Polish descent, I proudly rise to recognize the official designation of St. Hyacinth's Church on 3636 West Wolfram as a basilica for the Chicago Archdiocese.

My hometown of Chicago was once said to contain more Poles than any city outside Warsaw. Still today, in St. Hyacinth's parish, the area's largest and most prominent Polish Catholic parish, residents are just as likely to speak Polish as English.

St. Hyacinth's was founded in 1894 with less than 50 members and has grown tremendously over the years. Today, St. Hyacinth's serves over 8,000 worshippers each week under the guidance of the Resurrectionist Fathers, who have served the congregation since its founding.

Under the leadership of its rector since 1995, Rev. Michal Osuch, St. Hyacinth's has actively engaged in the sacramental life of the church by developing programs of evangelization that emphasize connecting adults, particularly with the sacraments of confirmation and marriage. The church also provides a welcoming home for new immigrants every month by hosting free English-as-a-Second Language classes, a Polish language school for children and many other community activities for adults, youth and children.

In becoming a basilica, St. Hyacinth's was recognized for its prestige, its beauty, and its ability to accommodate large numbers of parishioners since a basilica is a community's focal point for worship and evangelization. Cardinal Francis George validated these features last Sunday by formally proclaiming it as ''a place of frequent and exemplary liturgical celebration.''

The petition for basilica status was reviewed by the U.S. Conference of Catholic Bishops and approved by the Congregation of Divine Worship in Rome. As a basilica, it maintains an obligation to uphold a high level of both worship and religious instruction, particularly through conferences and speakers.

Mr. Speaker, I wish to congratulate St. Hyacinth's on this high honor and its upcoming 110th anniversary next year. In earning the distinction of becoming a basilica, it has again proven its importance as a pillar of Chicago's Polish American community. On this day, I am proud to join the people of my district, as well as those of Polish descent around the City, in celebrating this historic achievement.

THE VOTER CONFIDENCE AND INCREASED ACCESSIBILITY ACT OF 2003

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. HOLT. Mr. Speaker, today I rise to reiterate the importance of my ''Voter Confidence and Increased Accessibility Act of 2003'' to the integrity of democracy in the United States. Although I am deeply gratified by the substantial groundswell of support among my colleagues and cosponsors, I regret that this session draws to a close for the year without this critical piece of legislation having been meaningfully addressed by this Chamber.

When I introduced the Voter Confidence Act in May of this year, I did so without cosponsors. I had been told that no one wanted to reopen HAVA. I had been told that adding paper records back into the electoral process would generate fraud. I had been told that access for the disabled and voter verified paper trails were mutually exclusive—you can have one or the other, but you can't have both. I had been told that there is no complaint that existing electronic voting machines are not functioning properly. But it seemed obvious to me, given that all computers are subject to error, failure and tampering, that computers upon which elections are conducted would be as well. I also believed that voter verification mechanisms, just like voting machines themselves, could readily be made accessible to disabled voters. Although I supported HAVA, and continue to support the many groundbreaking improvements it ushered forth, I was troubled to see that HAVA funding fueled an unintended consequence—the wide-scale purchase of unauditable electronic voting machines—and threatened the very integrity of the electoral system in the United States. Earlier this session, I introduced the Voter Confidence and Increased Accessibility Act to enhance HAVA's accessibility requirements, to increase participation among all voters, and to restore faith in the electoral system and in the government itself by giving voters a means by which they themselves could be certain that their votes are being counted.

From the moment my press release announcing the bill was released, my telephone began to ring with calls from voters around the country expressing their profuse thanks. Within a week, one of my local metropolitan papers ran an editorial saying that the bill ''proposes urgent and sensible measures to preserve the sanctity of the ballot'' and suggested that Congress ''shift into high gear and enact this legislation without delay.'' Within two or three weeks, I was joined on the bill by eight of my Colleagues. In another week or two, I was joined by eight more. More editorials ran—New York Newsday said that although ''many election officials . . . resist the paper trail idea . . . the purpose of voting reform isn't to make life easier for election clerks. It is to make elections fairer and restore the frayed confidence of voters—the people who are supposed to count most of all.'' The Bismark Tribune asserted: ''One thing the committee should insist on is a paper 'receipt' that lets the voter check his work and is available for a re-count, if necessary.'' The Star News of North Carolina opined: ''By the time this is over, we might be nostalgic for hanging chads. At least they were cheap. It turns out those expensive high-tech voting systems based on computers can be stuffed like ballot boxes in Chicago. My, what a surprise. . . .'' Most recently, the New York Times said, ''[T]he public must feel secure that each vote is counted. At this stage, a voter-verified paper trail offers the public that necessary security.''

And as we all know, this is not just a matter of opinion. A team of computer scientists from Johns Hopkins and Rice Universities released

a report in July disclosing ''stunning, stunning flaws'' in the security of certain electronic voting machines widely in use, precipitating an avalanche of further studies and reviews, raising further red flags among jurisdictions considering new equipment purchases, and generating further uncertainty and concern about the use of privately owned and controlled voting equipment that produces results that cannot be meaningfully audited in any way. Reports of irregularities on voting machines abound, but I will mention just one. In a recent election conducted in Boone County, Indiana, a ''computer glitch'' reportedly ''spewed out impossible numbers.'' In a jurisdiction that had fewer than 19,000 registered voters, 144,000 votes were reported. The County Clerk said she ''just about had a heart attack.'' Although a ''corrected'' count of about 5,300 votes was eventually produced, how can we know it was in—fact correct? The fact is, without an independent voter verified paper trail, we can never know.

The New York Assembly passed a law in June mandating voter verified paper trails. The State of Illinois passed a similar law in August. In November, the Secretary of State of California mandated voter verified paper trails. Legislation requiring voter verified paper trails is also pending in Maine, and I have been told that similar bills are imminently to be introduced in Maryland and Virginia. Broad coalitions of public interest groups are now taking definitive action to lobby in favor of voter verified paper trails. The Communications Workers of America passed a resolution in August stating that the CWA ''endorse and support the use of only DRE and 'touch screen' machines with the ability to provide the voter with a view of a paper ballot that is stored and available for audits.'' A large New York-based coalition including at least five disability advocacy groups issued a statement in the fall urging that ''New voting machines should provide a 'voter-verifiable paper audit trail' and incorporate 'data-to-voice' technology to ensure full access by all.'' Grass roots organizations lobbying for my bill and for voter verified paper trails are forming all over the country. The resolution in favor of voter verifiable audit trails posted by Verifiedvoting.org has more than 1,000 endorsers. An online petition in favor of my Voter Confidence Act which had 50 signatures in July has more than 4,000 signatures now. An online petition in favor of voter verified paper trails sponsored by Martin Luther King III, the Southern Christian Leadership Conference and Investigative Journalist Greg Palast has more than 60,000 signatures.

I introduced this legislation because I think that if we don't have an election system that voters can trust, voter participation will decline and our democracy will deteriorate. Citizens from all over the country, sharing this concern, have spoken out, indeed shouted out, that we should act. The extent and depth of discussion on the Internet and in town meetings is striking.

This is not a partisan issue. I stand today with 90 Members from both sides of the aisle, who are just as deeply concerned about the integrity of our electoral system as I am. They are just as deeply troubled by the prospect of private ownership and control of the vote count as I am. They have heard from and responded to the concerns of their constituents about insecure, unauditable voting equipment just as I have. Some of them have even told me that—second only to the Iraq conflict—the issue of the verifiability of election results is the one most frequently raised in public forums. And one thing that has been reiterated to me time and again—even by people who have not made their minds up on the issue—is that the issue is not going to go away.

We have a responsibility to demonstrate that our democracy stands above all others in its unimpeachability. New York Times columnist Paul Krugman concluded his recent column, entitled ''Hack the Vote,'' by saying, ''Let's be clear: the credibility of U.S. democracy may be at stake.'' When the results are in after the next election, there must be no question. There must be no doubt. We must all feel certain that the voice of the people, as expressed in the voting booth, was heard. November 2004 is just around the corner. When this body reconvenes in January, I urge it to consider this legislation a top priority.

AUGUST 14TH BLACKOUT

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. TOWNS. Mr. Speaker, I rise to comment on the Bush Administration's report on the August 14 blackout that left millions of people in New York without power, some for days.

The U.S.-Canadian outage task force on November 19 issued a report titled ''Causes of the August 14th Blackout in the United States and Canada,'' saying 50 million people from Indiana to Massachusetts and Canada went without electricity because of untrimmed trees and a computer glitch. But the New York Times reported on November 25 that ''a variety of experts now say the [report's] findings were too narrow, ignoring the federal government's role in the recent reshaping of the power industry.''

We need to know what the truth is. The Times has reported on the blackout as thoroughly as anyone, so this report is very important. Maybe we need an impartial investigator to follow up on what they are reporting.

In the November 25 article, Alan Richardson of the American Public Power Association says that maybe the federal government didn't address what mistakes the Federal Energy Regulatory Commission (FERC) made in breaking up the utility industry ''because the answer is not one that's comfortable politically.''

Commenting on the organization the FERC approved to run the transmission wires in the Midwest, transmission expert Robert Blohm is quoted in the article as saying ''How come nobody has examined this horror story, of how they set up an entity 10 times more complex than any known one, in such a short period of time?''

John Casazza, a retired executive from a New Jersey utility, says in the article that ''There are a lot of aspects in this blackout that have not been touched by [the Administration's] report. . . . The root causes are what has happened as a result of our government policy.''

If the experts think policy set by the government is the cause of the blackout, why are the government officials who made these bad policy decisions the ones that are writing the report on what caused the blackout?

Back on September 23, the Times reported that ''Experts now think that on Aug. 14, northern Ohio had a severe shortage of reactive power, which ultimately caused the power plant and transmission line failures that set the blackout in motion. Demand for reactive power was unusually high because of a large volume of long-distance transmissions streaming through Ohio to areas, including Canada, that needed to import power to meet local demand.'' These long-distance transmissions were mainly by ''independent power producers,'' or IPPs, who often do not produce any reactive power. The article quoted Raymond Palmieri, who is responsible for transmission reliability in the Midwest, as saying reactive power ''is definitely a contributor'' to the blackout.

Who has been pushing for these long-distance transmissions by IPPs? The FERC. They had experts saying for at least two months before the official blackout report came out that it was a problem. But what did that official blackout report, which FERC and the DOE directed and wrote, say about the role of reactive power and IPPs? ''[T]he suggestion that IPPs may have contributed to the difficulties of reliability management on August 14 because they don't provide reactive power is misplaced.''

There is nothing wrong with independent power producers. They perform a valuable role in meeting the nation's electricity needs. But if the government's blackout report barely even mentions the role of reactive power, and doesn't mention at all whether, in light of more long distance transmissions, someone should have changed the rules to make sure there was enough of it, when experts say it was ''definitely a contributor,'' something isn't right.

While the FERC has been pushing for more long-distance transmission, Congress has been hearing from experts that the transmission system wasn't designed to operate that way, and that using it for long-distance transmission reduces reliability. At the House Energy and Commerce Committee's blackout hearing on September 4, Gene McGrath, the CEO of Consolidated Edison, said ''I think as an engineer and as an operator having the generation as close to the load center as it can be done is the best interest of everybody. . . . [A]s you separate generation from load you introduce another component. As you introduce other components you can introduce costs and you can introduce reliability problems.'' That is, generating the power two or three States away causes problems. We need to have the power generated close to where it is used.

Is that issue even discussed in the Administration's blackout report? No—not even a little bit.

Mr. Speaker, my constituents went without power on August 14. It's not just an inconvenience, it's a danger in many cases to be left without electricity. Life-support equipment, traffic signals, elevators, and so many other important devices all depend on electricity. But we seem to have a situation where our own government's review of the blackout steers away from even looking into what seem to be very important contributing factors.

FERC Chairman Pat Wood testified before the House Energy and Commerce Committee many times in the past couple of years, telling

us that to maintain reliability for the wholesale markets his policies promote, we need to beef up the transmission grid. But now that we've had the biggest blackout in our history, FERC doesn't admit its policies that stress the grid had anything to do with it. Chairman Wood's Senate testimony on November 20 was ''the [transmission] operator's primary charge is to work the system you've got. . . . Markets do not compromise reliability.'' So no matter if FERC sprayed water on the road in the freezing cold, it's your fault if you crash your car.

If we don't get an accurate picture from government investigators about the causes of the blackout, we will be dooming ourselves to more disruptions, dangers, and inconveniences in the future. I am not willing to allow that.

I ask that we consider whether we need an independent investigation of the causes of the blackout so we can do what needs to be done to prevent the next blackout from occurring.

HONORING LaGUARDIA COMMUNITY COLLEGE

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. CROWLEY. Mr. Speaker, I rise to acknowledge the good work of LaGuardia Community College of Long Island City in Queens, New York. LaGuardia Community College serves one of the most diverse student bodies in the U.S. within one of the most vibrant neighborhoods in the U.S. Over the years, men and women from all over the world have called LaGuardia Community College their home. Over the years, LaGuardia Community College has quietly and diligently provided a first-class education for students of all economic, ethnic, and religious backgrounds.

LaGuardia Community College has served my community and the world for decades, and its mission has earned it the title of The World's Community College. However, they recently earned another distinction—nationally recognized community college. The Community College Survey of Student Engagement studied approximately 300 colleges, looking at 10 different categories. This non-profit found that LaGuardia Community College ranked in the top 3 of 13 large community colleges in North America. This ranking confirms what so many of us have known for so long—that LaGuardia Community College is not only The World's Community College. It is also the world's premier community college.

Of course, this distinction would not be possible without the work of countless administrators, professors, students, and friends from around the community. I would particularly like to thank LaGuardia Community College President, Dr. Gail O. Mellow for her vision. It is because of leaders like her that LaGuardia Community College can achieve such an incredible level of success.

Our world needs an understanding, dedicated, well-educated populace now more than ever. Our world is dependant on the students that come out of LaGuardia Community College and the good work that they do. For those reasons, we all owe the school our respect and gratitude.

INTRODUCING A RESOLUTION COMMENDING THE GOVERNMENTS OF INDIA AND PAKISTAN FOR IMPROVED DIPLOMATIC RELATIONS BETWEEN THE TWO COUNTRIES, AND FOR OTHER PURPOSES

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce a resolution commending the governments of India and Pakistan for their efforts to achieve peace and stability in the South Asian region.

For years, India and Pakistan have been the victims of numerous terrorist attacks, which have greatly heightened religious and ethnic tensions in the troubled region. Discord amongst Hindu and Muslim populations has led to a war of attrition, whereby insurgents on both sides sneak across the border to commit murder and destruction before sneaking back across.

India and Pakistan have a history of disputes going back decades. The most prominent amongst these conflicts has been the territory of Kashmir. India and Pakistan each claim Kashmir as their own, despite the territory having its own distinct population agitating for autonomy. Indian and Pakistani forces have routinely engaged in minor skirmishes along the border. The conflict, more than any other, has led to a destabilizing nuclear arms race in the region, resulting in threats of war and the severing of political, diplomatic, and economic links.

In recent months, however, diplomatic overtures between India and Pakistan have resulted in laudable agreements to improve relations. Since April 2003, India and Pakistan have sent ambassadors, reestablished bus links, and declared the first real cease-fire in the 17-year-old border conflict. Most recently, the two countries resumed air travel and overflight rights with one another. Further, Indian Prime Minister Vajpayee has agreed to attend in the near future a regional economic summit in Islamabad, a sure sign of progress.

The resolution I am introducing today congratulates India and Pakistan on their efforts to achieve stability and to seek a peaceful means to resolve their disputes. The resolution also recognizes both countries' efforts in the global war on terrorism and their close partnerships with the United States.

Though both nations still have a long way to go to fully achieve a lasting peace, the House of Representatives should be pleased with their determination to seek a peaceful, economically prosperous road to stability.

Mr. Speaker, I conclude by once again referring to the unconscionable acts of violence and terror wrought on both India and Pakistan. I further express my support and encouragement to both nations for their efforts to rebuild diplomatic relations despite trying circumstances.

I urge my colleagues to support this resolution, and I ask the House leadership to bring it swiftly to the floor for its consideration.

COMMEMORATING THE 50TH ANNIVERSARY OF THE YOUNG ISRAEL OF NEW HYDE PARK

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. ACKERMAN. Mr. Speaker, I rise today in honor of the 50th anniversary of Young Israel of New Hyde Park, the only Orthodox synagogue in northeast Queens. The synagogue, which boasts a vibrant multigenerational membership, plays a central role in increasing the presence and awareness of Orthodox Judaism in our community.

For half a century, Young Israel of New Hyde Park has provided its members and visitors with many of the things that an Orthodox family looks for and needs: from classes to daily minyanim to a local Boy Scout troop. Now under the leadership of Rabbi Binyamin Hammer, the synagogue, which is just around the corner from Long Island Jewish Medical Center, Hillside Hospital and Schneider Children's Medical Center, has long been known as a place where families and friends of patients can find religious support and Shabbat and Yom Tov hospitality. To this end, a bikur cholim apartment was recently added through the purchase of a house next door to the synagogue. To date it has provided temporary lodging for people from all over the United States, Russia, Italy, Israel and Canada.

Those familiar with this congregation, those who, for 50 years have made it a place of civic support and spiritual development, know that Young Israel is more than just a temple—but a shul, a spiritual home, a place that reflects the highest aspirations of an ancient people living proud and free in this great nation.

I commend Young Israel of New Hyde Park for its continued dedication to our community. I ask my colleagues in the House of Representatives to please join me in congratulating the synagogue on the occasion of its 50th anniversary and in wishing Young Israel best wishes for another 50 years.

NOBEL PEACE PRIZE LAUREATES

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. MARKEY. Mr. Speaker, last week the 4th Nobel Peace Laureates Summit was held in Rome. At the conclusion of the Summit, the Laureates issued a statement on behalf of this extraordinary gathering that is printed at the end of these remarks. There are too few places in our public dialogue where a universal perspective is encouraged and lauded. The Nobel Peace Prize is one of them. Such civil society institutions are to be encouraged because they are needed to work on global challenges.

The Laureates reinforced in the most eloquent terms the message sent at a recent panel convened by the Bipartisan Task Force on Non-proliferation of which I am Co-chair with my colleague CHRISTOPHER SHAYS (R-Conn.). This panel on ''The Limits of Unilateralism'' included the world-renowned

anthropologist Dr. Jane Goodall, former Ambassador Thomas Graham, and Mr. Michael Douglas, actor and U.N. Messenger of Peace. In his remarks, Mr. Douglas stressed that not only Americans, but all people on the planet, are faced with enormous challenges to our security and survival which can only be effectively met through international cooperation. He reminded us that we are tasked with ''ensuring bio-diversity and ending the destruction of thousands of species; reversing the depletion of fishing stocks; controlling ocean dumping; preventing ozone depletion; halting global warming; controlling and eliminating terrorism and weapons of mass destruction; fighting pandemic diseases; ending the tragedy of crushing poverty and lack of clean drinking water; and addressing crises arising from failed states. No nation or even a small group of nations can succeed in addressing these issues alone.''

Jonathan Granoff, who helped organize our Task Force event here in Washington as President of the Global Security Institute (GSI), also attended the Summit of the Nobel Peace Laureates in Rome as a representative of the International Peace Bureau, a Nobel Peace Laureate organization.

The Summit took place from the 27 to 30 November 2003. It was convened upon invitation by Mikhail Gorbachev and Walter Veltroni, Mayor of the City of Rome. The following Nobel Peace Laureates—individuals and organizations—participated in the Summit: The XIV Dalai Lama Tenzin Gyatso, Mikhail Gorbachev, Mairead Corrigan Maguire, Shimon Peres, Joseph Rotblat (represented by Professor Robert Hinde), Oscar Arias Sanchez, Lech Walesa, Betty Williams, Jody Williams, American Friends Service Committee, Amnesty International, Doctors Without Borders, International Campaign to Ban Landmines, International Labour Organization, International Peace Bureau, International Physicians for the Prevention of Nuclear War, International Law Institute, Pugwash Conferences, Quakers Peace and Social Witness, United Nations, United Nations Children's Fund, United Nations High Commissioner for Refugees, and United Nations Peace Keeping Forces.

The theme of the gathering was ''Ethics and Policy.'' It is a subject we discuss often in this chamber as we apply policies to our domestic affairs. It is also needed, perhaps even more so, in international affairs. For this reason, I would like to submit the Final Statement of the Summit into our record for your review and consideration:

ETHICS AND POLICY—4TH GLOBAL SUMMIT OF NOBEL PEACE LAUREATES ROME, CAMPIDOGLIO, NOVEMBER 30, 2003

FINAL STATEMENT

We are the first generation making decisions that will determine whether we will be the last generation. We have an ethical responsibility to future generations to ensure that we are not passing on a future of wars and ecological catastrophe. For policies to be in the interest of humanity, they must be based on ethical values.

We express our profound anxiety that current policies are not creating a sufficiently secure and stable world for all. For this reason, we need to reset our course based on strong ethical foundations.

Compassion and conscience are essential to our humanity and compel us to care for one another. Cooperation amongst nations, multilateralism, is the logical outgrowth of this principle. A more equitable international order based on the rule of law is its needed expression.

We reiterate our conviction that international politics need to be reformed to address effectively three critical challenges: ending wars and violence, eliminating poverty, and saving the environment.

We call upon everyone to join us in working to replace the culture of war with a culture of peace. Let us ensure that no child is ever again exposed to the horrors of war.

Recent events, such as the escalation of the conflict in the Middle East, bloodshed in Afghanistan, Iraq and Chechnya, as well as in parts of Africa and Latin America, confirm that problems with deep economic, social, cultural or religious roots cannot be resolved unilaterally or by armed force.

International terrorism is a threat to peace. Multilateral cooperation and the promotion of human rights under the rule of law are essential to address terrorism and its underlying sources.

The threat of weapons of mass destruction remains with us. We call for an immediate end to the newly resurgent arms race, which is being fueled by a failure to universally ratify a treaty banning nuclear testing, and by doctrines that lower the threshold of use and promote the creation of new nuclear weapons. This is particularly dangerous when coupled with the doctrine of preemption.

For some to say that nuclear weapons are good for them but not for others is simply not sustainable. The failure of the nuclear weapons states to abide by their legal pledge to negotiate the elimination of nuclear weapons, contained in the Nuclear Nonproliferation Treaty, is the greatest stimulus to their proliferation.

Nuclear weapons are immoral and we call for their universal legal prohibition. They must be eliminated before they eliminate humanity.

We support the treaty to ban landmines and call for effective agreements to limit conventional weapons and arms trade.

Trillions of dollars have been spent since the end of the Cold War in developing military approaches to security. Yet, the daily lives of billions remain bereft of adequate health care, clean water, food and the benefits of education. These needs must be met.

Humanity has developed sophisticated technologies for destruction. Appropriate social and human technologies based on cooperation are needed for survival.

The international community has a proven tool, the universality of the United Nations. Its work can and must be improved and this can be done without undermining its core principles.

We assert that unconditional adherence to international law is essential. Of course, law is a living institution that can change and grow to meet new circumstances. But, the principles that govern international relations must not be ignored or violated.

Ethics in the relations between nations and in government policies is of paramount importance. Nations must treat other nations as they wish to be treated. The most powerful nations must remember that as they do, so shall others do.

Economic hardship is often the result of corruption and lack of business ethics, both internationally and locally. Through utilizing more effective ethical codes of conduct the business community can contribute to protecting the environment and eliminating poverty. This is both a practical and moral necessity.

The scientific community could serve human interests more fully by affirmatively adopting the ethical principle of doing no harm.

The international community has recently recognized the importance of establishing an ethical framework. Leaders of States issued the Millennium Declaration at the United Nations and set forth common values of freedom, equality, solidarity, tolerance, respect for nature and shared responsibility. From these values, a plan to address sustainable development and poverty, the Millennium Development Goals, emerged. We urge all to join in implementation of these goals and prevent any retreat from specific commitments. Moreover, we share the principles of the Earth Charter and urge governments at all levels to support this important document.

For globalization to enhance sustainable development, the international community needs to establish more democratic, transparent, and accountable forms of governance. We advocate extending the benefits of democracy and self governance but this goal cannot be achieved through coercion or force.

After a special session, the Nobel Peace Prize Winners have agreed that the death penalty is a particularly cruel and unusual punishment that should be abolished. It is especially unconscionable when imposed on children.

We affirm the unity of the human family. Our diversity is an enrichment, not a danger. Through dialogue we gain appreciation of the value of our differences. Our capacity to work together as a community of peoples and nations is the strongest antidote to violence and our reason for hope.

Our commitment to serve the cause of peace compels us to continue working individually and together on this path. We urge you to join us.

TRIBUTE TO FORMER U.S. SENATOR PETE WILLIAMS OF NEW JERSEY

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. HOLT. Mr. Speaker, thousands, even millions, of American workers today have their fingers, eyesight, even their lives because of the legislative work of former U.S. Senator Harrison ''Pete'' Williams of New Jersey. They will never know who they are.

Millions of Americans have adequate retirement pensions or health care coverage because of the legislative work of Sen. Williams. They don't remember Pete Williams when they open their monthly benefits checks.

As the author and champion of landmark legislation, Pete Williams gave the country the Occupational Safety and Health Act (OSHA), which is the single most important step in workplace safety in history, and he created the Employee Benefit Retirement and Income Security Act (ERISA) which helped guarantee minimum benefits for all working Americans.

Two years ago, former Senator Williams, who would have been 84 years old this week, died. He was retired after 4 years in this body and almost 24 years in the U.S. Senate. Since his death, neither body has given appropriate recognition to him and his contributions to America. A cloud has obscured his many great contributions.

Pete Williams fought for a wide range of landmark laws to improve the quality of life for average Americans. As a member and longtime chair of the Committee on Labor and

Human Resources in the other body across the Capitol, he brought forth the Coal Mine and Health Safety Act; increases in the minimum wage in 1966, 1974, and 1977; the Vocational Rehabilitation the Alcohol Rehabilitation Act; legislation preventing discrimination against pregnant workers; legislation preventing age discrimination; the Migrant Labor Health Act; legislation for special education; the Equal Employment Opportunity Act of 1972; legislation for college tuition assistance for needy students; legislation protecting the rights of workers to organize; and Meals on Wheels. Let me repeat: many of these are landmarks in American history. And that is not all; Pete Williams also produced legislation providing elderly housing, open space, arts funding, and marine mammal protection, and he led or contributed to many other laws. As my colleagues here know, it is customary for the President to give a pen from an important bill signing to each legislator who played a significant role in the bill. Pete Williams had seventy Presidential pens.

As a young man working in the Senate, I first watched Senator Williams debate the 1964 Civil Rights Act and was impressed by his intellect and sincerity, qualities that defined his work as a United States Senator.

Sometimes called the ''Voice for the Voiceless,'' Pete Williams spoke for many Americans who never knew him—never even knew of him. He did not need to work on the Migrant Labor Act; not many of those farm workers voted. He thought of those without privilege. He created the first standing subcommittee on aging and the first standing committee on issues related to physical disabilities. I noticed back in 1963 and 1964 that Senator Williams was a man who paid attention to those who were sometimes invisible to others like him—the cafeteria workers, the pages, the elevator operators, the support staff. He was not a showboat, although New Jerseyans were so devoted to him that he was reelected with acclaim for four terms. In fact, he was the only Democrat in the state up to that time to be re-elected to the Senate.

But he was not to be the ''Senator for life'' as he was sometimes called. In his fourth term in the U.S. Senate, he was implicated, along with six members of this body, in the so-called Abscam bribery sting and resigned under a cloud and served time in prison. His colleagues and historians have not known how to remember this man, how to tell his complicated story, how to commemorate his legacy—a legacy that includes what is one of the greatest legislative records for the benefit of Americans.

Fighting expulsion from the Senate, Senator Williams averred his innocence and maintained that ''time, history and Almighty God [would] vindicate'' him. I hope historians will find the way to do justice to this man and his work.

Senator Daniel Patrick Moynihan described his friend and colleague Sen. Pete Williams as ''thoughtful, decent, and determined in all he did.'' Many colleagues wondered how sad a man could fall from grace. One might try to blame judgment weakened by alcohol or perhaps overzealous or dishonest federal agents or simple political vindictiveness. His is a cautionary tale for anyone in elective office or public service. The lesson is that there are always those who would take advantage of one's weaknesses. Pete Williams, author of the Vocational Rehabilitation Act and the Alcohol Rehabilitation Act, learned that there was no political rehabilitation act for him. But there is a more positive lesson, too; one person who works hard and shows compassion for others can improve the lives of others. History should not lose that more positive lesson of the career of Senator Pete Willams.

CONFERENCE REPORT ON H.R. 2417, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2004

SPEECH OF

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 20, 2003

Mr. MOORE. Mr. Speaker, I rise in opposition to one provision of the conference report before us today, which causes me to vote against the entire measure.

This legislation authorizes classified amounts in fiscal year 2004 for 14 U.S. intelligence agencies and intelligence-related activities of the U.S. government—including the CIA and the National Security Agency, as well as foreign intelligence activities of the Defense Department, the FBI, the State Department, the Homeland Security Department, and other agencies. H.R. 2417 covers CIA and general intelligence operations, including signals intelligence, clandestine human-intelligence programs and analysis, and covert action capabilities. It also authorizes covert action programs, research and development, and projects to improve information dissemination. All of these are important and vital programs, which I support.

I am voting against this measure today, however, to draw attention to a provision which I believe should have been the subject of more rigorous congressional analysis than merely an up-or-down vote as part of a larger conference agreement. This measure expands the definition of ''financial institution'' to provide enhanced authority for intelligence community collection activities designed to prevent, deter and disrupt terrorism and espionage directed against the United States and to enhance foreign intelligence efforts. Banks, credit unions and other financial institutions currently are required to provide certain financial data to investigators generally without a court order or grand jury subpoena. The conference agreement expands the list to include car dealers, pawnbrokers, travel agents, casinos and other businesses.

This provision allows the U.S. government to have, through use of ''National Security Letters,'' greater access to a larger universe of information that goes beyond traditional financial records, but is nonetheless crucial in tracking terrorist finances or espionage activities. Current law permits the FBI to use National Security Letters to obtain financial records from defined financial institutions for foreign intelligence investigations. While not subject to court approval, the letters nonetheless have to be approved by a senior government official. The PATRIOT Act earlier had altered the standard for financial records that could be subject to National Security Letters to include the records of someone ''sought for'' an investigation, not merely of the ''target'' of an investigation.

While this new provision of law included in the conference report does not amend the PATRIOT Act, I agree with the six Senators who recently wrote to the Senate Intelligence Committee and asked them not to move ahead with such a significant expansion of the FBI's investigatory powers without further review. As they stated, public hearings, public debate and legislative protocol are essential in legislation involving the privacy rights of Americans. As a member of the House Financial Services Committee, I am concerned that these new provisions of law could be used to seize personal financial records that traditionally have been protected by financial privacy laws. The rush to judgment following the attacks of September 11, 2001, led to the rapid enactment of the PATRIOT Act, a measure which has caused substantial concerns among many Americans who value our constitutionally-protected liberties. Now that we are able to legislate in this area with a lessened sense of urgency, I urge my colleagues to step back and return this provision of H.R. 2417 to committee, where it can undergo the rigors of the normal legislative process so that Congress, and all Americans, can pass an informed judgment upon its merit.

REMEMBERING PEARL HARBOR

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. ROTHMAN. Mr. Speaker, 62 years ago yesterday, our nation was suddenly attacked by the Imperial Japanese Naval Forces and drawn into World War II. This unprovoked act of war killed 2,338 military personnel and civilians, and wounded 1,178. The attacks sank or heavily damaged 21 ships and destroyed or damaged 323 aircraft. December 7, 1941 is a date which continues to live in infamy.

Mr. Speaker, the brave servicemen and women who served that day are responsible for our presence here today. Sadly, on September 11, 2001, this nation tragically experienced another Pearl Harbor whereupon our nation again sacrificed innocent Americans who woke up that morning, entirely unaware that they would never see their loved ones again. During that most difficult time we drew strength and courage from those who served this great nation before and from the leaders who led this great nation through our darkest hours.

On December 8, 1941, President Franklin Roosevelt addressed the nation and declared, ''no matter how long it may take us to overcome this premeditated invasion, the American people, in their righteous might, will win through to absolute victory.'' These are words that ring true today. On a day when many Americans feared for our nation, FDR's words of confidence, determination, and purpose did indeed carry this nation to absolute victory. Those same words will carry this nation to absolute victory once again as our brave men and women of the armed services are stationed in and around Iraq and Afghanistan fighting to preserve our freedom, security and democracy. Like those who served before, we are forever grateful for their courageous and heroic acts and we will never forget their sacrifices.

On the anniversary of the attack on Pearl Harbor, we must remember the difficult times our brave servicemen and women went through to defend our nation, and we mourn the deaths of the military personnel and civilians who died that day. Mr. Speaker, today we must ensure that our children, grandchildren, and great grandchildren learn about the lives of our veterans, including those of the Greatest Generation who served in World War II. Our commitment to our veterans must remain strong because they are a symbol of the greatness of our country.

President Kennedy once said that you can judge a nation not just by the people—the men and women—that it produces, but also by the people that a nation remembers. Today, Mr. Speaker, we remember true heroes.

TRIBUTE TO MR. HARRY SHASHO—A CITIZEN DEDICATED TO THE IMPROVEMENT OF HIS COMMUNITY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. HOYER. Mr. Speaker, in Southern Maryland we are blessed to have so many exemplary citizens who invest their time, energy and talent in making it a special place to live. One such citizen who has gone above and beyond and exemplifies the true spirit of American entrepreneurship is Harry Shasho. Harry believes in the community and has worked hard to improve the lives of Charles County residents now and in the future.

Mr. Speaker, it is my honor to acknowledge the deeds and fortunes of this outstanding citizen, Harry Shasho. Harry got an early start in business and in fact, says he has been a businessman since he was 12 years old. In 1976 when Harry moved to Charles County, he owned a small chain of camera and electronics stores on F St. in Washington, D.C. In 1985, he sold his portion of the business and began selling real estate; first residential, then commercial. In 1989, Harry went to work for Baldus Real Estate and started their Commercial Division. Now, Baldus is the best known Commercial Company in Southern Maryland.

As a businessman, Harry recognized the need to train future leaders and became involved in helping young men through Boy Scouts. Over the years, he has not only guided boys into becoming more effective and productive citizens, but has also trained adults to become better leaders. During his tenure as Scoutmaster, his scout troop has produced 12 Eagles Scouts, yet another tribute to his compassion. Mr. Shasho continues to serve on fundraising committees for the Boy Scouts of America.

Mr. Shasho has been a leader in the Charles County Chamber of Commerce for over 10 years, holding positions as Board of Director, Secretary, Treasurer, Vice President, President Elect, and is currently serving as the 2003 President. Under his direction as President, he has increased membership and built a strong alliance between the Chamber and County and State government officials. They have worked together on many issues which impact the business community.

In addition to serving with the Charles County Chamber of Commerce, Harry is Chairman of the Southern Maryland advisory board for BB&T Bank, a committee member of the Charles County Economic Development Commission, Member of the National and State Association of Realtors and has received a National Leadership award from the National Republican Congressional Committee.

Mr. Speaker, it is my pleasure to honor Mr. Harry Shasho, as he retires as President of the Charles County Chamber of Commerce on January 12, 2004. We are all so proud of the work he has done to improve the lives of everyone in Charles County and I am very proud to call him my friend.

CELEBRATION OF THE OFFICIAL OPENING OF THE BUILDING OF WEILL CORNELL MEDICAL COLLEGE IN QATAR

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mrs. MALONEY. Mr. Speaker, on October 12, 2003, Weill Cornell Medical College and the Qatar Foundation for Education, Science and Community Development embarked on an historical venture that brings the best of American medical education to the Middle East. I was privileged to participate in this extraordinary event along with Qatar Foundation Leadership: Her Highness Sheikha Mozah Nasser al-Misnad; Saif Ali Al-Hajari, Vice Chairperson; H.E. Yousef Hussein Kamal, Member Board of Directors; H.E. Hajar Ahmed Hajar, Member, Board of Directors; Sheikha bint Abdullah Al-Misnad, Member, Board of Directors; Mohammed Fathy Saoud, Member, Board of Directors; and, Cornell University Leadership: Peter C. Meinig, Chairman, Board of Trustees; Sanford I. Weill, Chairman, Board of Overseers Weill Cornell Medical College; Jeffrey S. Lehman, President; Antonio M. Gotto, Jr., Provost for Medical Affairs and Stephen and Suzanne Weiss Dean, Weill Cornell Medical College; Daniel R. Alonso, Dean, Weill Cornell Medical College in Qatar. Together with these esteemed colleagues, we marked the opening of a model institution that I hope will be replicated throughout the region.

I first visited Doha, Qatar in 1999 for the historic municipal elections where women were first granted the right to vote. At that time, I met with Her Highness Sheikha Mozah Nasser al-Misnad who requested help in bringing a U.S. medical school to Qatar. I did not have to look far to find an extraordinary medical institution that is located in my Congressional district. As a result, I took a small part in working to forge the relationship between Her Highness and Dean Gotto, Provost for Medical Affairs at Cornell University. Just a few short weeks ago, the Qatar branch of the Weill Cornell Medical College celebrated its inauguration.

In a very short period of time, Doha has been transformed into an academic hub of the Middle East and has become a strategic ally of the United States. Under the leadership of Her Highness, Qatar has made significant advancements in education, medicine, and science with the opening of the Education City. I strongly believe that the opening of WCMC–Q marks the beginning of an important exchange between the West and the East . . . at a time when the value of mutual understanding is at a premium. Qatar offers a superb environment and facilities for both teaching and studying, backed by an outstanding technological center. It has been an honor to be involved in the development of the Weill Cornell Medical College in Qatar, and I look forward to marking the evolution of the entire Education City.

Weill Cornell Medical College in Qatar is a pioneer in medical education as well as in diplomatic exchange. The College offers a complete medical education, leading to a Cornell University Doctor of Medicine (M.D.) degree, with teaching by Cornell faculty. It is the first American university to offer its M.D. degree overseas, and the first higher education institution in Qatar to be coeducational; women made up 70 percent of the inaugural class for the Pre-medical Program. These points are very important. Prospective students are subject to the same entrance requirements as in the United States and are awarded the same degree as students in the U.S. While WCMC–Q teaches in a coeducational forum, the students and faculty are learning together about cultural differences that only serve to enhance the learning environment. WCMC–Q aims to further the University's commitment of education, research, patient care and the advancement of the art and science of medicine while supporting the work of the Qatar Foundation in serving the community. WCMC–Q trains the physicians of the future and will research medical problems of concern in the region.

His Highness the Emir Sheikh Hamad bin Khalifa al-Thani and Her Highness Sheikha Mozah Nasser al-Misnad have made an ambitious and visionary investment in their people and their economy by creating the Education City. Recognizing that development and advancement will only come with an upgrade to the educational system, they have succeeded in fostering the interaction of various disciplines, cultures, and ideas through the Education City. The Qatar Foundation logo, the Sidra tree, represents nourishment for these ideals and serves as a reminder that Qatar is forging the way for democracy, freedom, and human rights in the region.

I feel privileged to have participated in this revolutionary event and I would like to reiterate my praise for both the Qatar Foundation and for Weill Cornell Medical College in Qatar. You have built a bridge that will have a far-reaching impact into the future and will serve as a model of achievement for many to follow.

RECOGNIZING THE APPOINTMENT OF CADET CLIFFORD T. JACKSON TO CHIEF PETTY OFFICER

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. LANGEVIN. Mr. Speaker, I proudly rise today to congratulate Clifford T. Jackson on his announced appointment to Chief Petty Officer in the United States Naval Sea Cadet Corps, which is scheduled to occur on January 9, 2004. Cadet Jackson, of Westerly, Rhode Island, is an honor roll high school senior and has been a member of the Nautilus Division at the Sub Base in New London since

March 2001. Cadet Jackson has risen to the rank of Chief Petty Officer faster than any other cadet in the 26 years of the Nautilus Division. This accomplishment is only bestowed upon one half of one percent of approximately ten thousand Naval Sea Cadets in the program and reflects exceptional leadership skills and a masterful grasp of seamanship training.

I hope our colleagues will join me in congratulating Clifford Jackson for his achievement, and I wish him great success in his future endeavors.

IN MEMORY OF U.S. ARMY SPECIALIST REL ALLEN RAVAGO IV

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to honor the memory of my constituent, United States Army Specialist Rel Allen Ravago IV of the 1st Battalion, 502nd Infantry Regiment, 2nd Brigade of the 101st Airborne Division, who was killed in action on November 23, 2003 in Mosul, Iraq when hostile forces attacked his Army vehicle.

After graduating from Hoover High School in Glendale, Specialist Ravago soon joined the United States Army and was deployed to Iraq in May 2003. He was due to return home next March at the end of his four-year tenure in the Army. From all accounts, he was a dedicated and enthusiastic soldier who served our country with courage and distinction.

A talented artist and honorable soldier, Specialist Ravago's family, friends and fellow servicemen have spoken with admiration and veneration of his commitment to duty, his dedication to his unit and his love of country and family.

Students at Hoover High recently erected a patriotic memorial of red, white and blue carnations mixed with American flags, containing a short, but poignant message attached: ''You'll be missed.''

Friends, family and loved ones remember Ravago as a popular student who played in Hoover High's drum corps and studied martial arts. His former teachers describe him as ''radiating joy and a love of life'' with a ''smile that you could see from miles away.''

I recently had the opportunity to meet with Specialist Ravago's parents and grandfather following his death. They told me how proud they were of their son and grandson, how proud he was to serve his country and how much they would always miss him. Our nation owes his family a debt we can never repay and Specialist Ravago will never be far from our thoughts. His sacrifice and those of other soldiers who have fallen on the field of battle have kept our nation free.

On behalf of the United States Congress, I wish to once again, bestow our most heartfelt appreciation for Army Specialist Rel Allen Ravago's service and sacrifice for the United States of America. To his family and loved ones: your son, your brother, your grandson, your nephew, your cousin and your friend, served our country with honor and nobility and he will be missed.

INTRODUCTION OF NATIONAL SECURITY LANGUAGE ACT

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. HOLT. Mr. Speaker, we can no longer keep our nation safe if we do not commit ourselves to learning the languages and cultures of critical areas around the world. The security of our troops overseas and the American people here at home demand that we act quickly to eliminate the severe shortage of critical need language professionals in this country. Inaction on this issue is not only irresponsible; it's dangerous.

That's why I rise today to introduce legislation, the National Security Language Act, which would significantly expand our investment in foreign language education on the primary, secondary, and post-secondary level.

Al Qaeda operates in over 75 countries, where hundreds of languages and dialects are spoken. However, 99 percent of American high school, college and university programs concentrate on a dozen (mostly European) languages. In fact, more college students currently study Ancient Greek (20,858) than Arabic (10,596), Korean (5,211), Persian (1,117), and Pashto (14) put together. We need to do more to make sure that America has the language professionals necessary to defend our national security. This cannot be done overnight. We are already years overdue.

As reported by the 911 Joint Inquiry in July, our intelligence community is at 30 percent readiness in languages critical to national security. Despite this alarming statistic, we do not appear to be taking aggressive action to address this problem. When I asked a panel of intelligence experts at a recent Intelligence hearing what the federal government is doing to increase the pool of critical need language professionals, they answered with silence. Two years after the events of September 11, we are still failing to address one the most fundamental security problems facing this nation.

Changing our recruiting methods alone will not solve the problem. To meet new security needs, we need to create a new domestic pool of foreign language experts and we can only do that by investing in the classroom.

The National Security Language Act would expand federal investment in education in foreign languages of critical need, such as Arabic, Persian, Korean, Pashto, and Chinese. Specifically, my bill would provide loan forgiveness of up to $10,000 for university students who major in a critical need foreign language and then take a job either in the federal workforce or as a language teacher. It would provide new grants to American universities to establish intensive in-country language study programs and to develop programs that encourage students to pursue advanced science and technology studies in a foreign language.

My bill would also establish grants for foreign language partnerships between local school districts and foreign language departments at institutions of higher education. And it would authorize a national study to identify heritage communities here in the United States with native speakers of critical foreign languages and make them targets of a federal marketing campaign encouraging students to pursue degrees in those languages.

Just as the National Defense Education Act of 1958 created a generation of scientists, engineers, and Russian linguists to confront the enemy of that time, the National Security Language Act will give us a generation of Americans able to confront the new threats we face today.

CONFERENCE REPORT ON H.R. 2622, FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003

SPEECH OF

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 21, 2003

Mr. MOORE. Mr. Speaker, I rise today in support of the conference report on H.R. 2622, the Fair and Accurate Credit Transactions Act of 2003 (the FACT Act). As a member of the House Financial Services Committee and as a member of the conference committee that drafted the final version of this legislation, I was deeply involved in the drafting and consideration of this measure.

I was pleased to join with my colleagues, Representatives BACHUS, HOOLEY and BIGGERT, in introducing this bipartisan measure. This bill was approved in subcommittee on a vote of 41–0, in full committee by a vote of 63–3 and by the full House by a vote of 392–30 with one voting present. Earlier this week, the Senate approved a similar version of this bill by 95–2.

Mr. Speaker, this is the way Congress should work. This is the way our constituents want us to conduct their business. Consideration of this bill consistently has been bipartisan and thoughtful. All members of the committee with opinions and proposals on the issues raised by H.R. 2622 were able to offer amendments and participate in debate. The way in which this measure was handled made this a stronger piece of legislation than the version we introduced. I commend our committee's leadership, Chairman OXLEY and Ranking Democrat FRANK, for making this possible.

Mr. Speaker, the problems of inaccurate and incomplete information that plague the current credit reporting system are of great personal concern to those of our constituents who have suffered them. I'm sure each of us could relate instances involving constituents who have faced tremendous difficulty and aggravation in correcting inaccurate credit histories.

This legislation directly addresses these very real problems faced by people every day of the year. Our credit system is the envy of every other country in the world. Our country, overall, does an excellent job of making credit available quickly and fairly to consumers and businesses. Enactment of H.R. 2622 will preserve and strengthen this system. This conference agreement permanently extends those provisions of the 1996 version of the Fair Credit Reporting Act (FCRA) that prevent states from enacting stronger credit laws, thereby extending the federal standards in those areas—including those rules dealing with how affiliates can share consumer information.

The measure also provides new consumer protections against identity theft, including the

following new provisions of law. The FACT Act will:

Provide consumers with a free credit report every year from each of the three national credit bureaus, from a single centralized source;

Give consumers the right to see their credit scores;

Provide consumers with broad new medical privacy rights;

Give consumers the ability to opt-out of information sharing between affiliated companies for marketing purposes;

Establish a financial literacy commission and a national financial literacy campaign;

Ensure that consumers are notified if merchants are going to report negative information to the credit bureaus about them; and

Extend the seven expiring provisions of the Fair Credit Reporting Act.

The FACT Act also includes several significant new provisions addressing the problems surrounding identity theft. It will:

Allow consumers to place ''fraud alerts'' in their credit reports to prevent identity thieves from opening accounts in their names, including special provisions to protect active duty military personnel;

Require creditors to take certain precautions before extending credit to consumers who have placed ''fraud alerts'' in their files;

Allow consumers to block information from being given to a credit bureau and from being reported by a credit bureau if such information results from identity theft;

Provide identity theft victims with a summary of their rights;

Provide consumers with one-call-for-all protection by requiring credit bureaus to share consumer calls on identity theft, including requested fraud alert blocking.

Prohibit merchants from printing more than the last 5 digits of a payment card on an electronic receipt;

Require banks to develop policies and procedures to identify potential instances of identity theft;

Require financial institutions to reconcile potentially fraudulent consumer address information; and

Require lenders to disclose their contact information on consumer reports.

While this legislation was the product of a bipartisan consensus and a conference procedure that produced what, overall, is an outstanding measure, I would like to raise concerns with one provision of the bill that I believe may need to be re-addressed in the near future, or we may run the risk of thwarting the continued evolution of risk-based pricing in the home mortgage market. First, I would like to talk about the benefits of risk-based pricing in the mortgage market. Not too long ago, only borrowers that fit the industry's cookie cutter mold of creditworthiness were deemed qualified to purchase a home or to tap their home equity. The market was two-tiered—all those who fit the mold got credit at the same price, and those who didn't fit the mold got no credit at all.

But that has changed dramatically in recent years. More sophisticated risk measurement models were developed in the 1990s—helped in large part by the uniform credit reporting standards we are today preserving in this bill—that allow lenders to accurately measure credit risk and price it accordingly. The result has been that families previously shut out of the home purchase and home equity markets now have access to credit from mainstream lenders at rates that reflect the underlying risk of the borrower and the property. Mortgage credit markets are now fluid and access to credit is no longer bifurcated between the haves and have-nots. As research by the Federal Reserve Board has shown, the development of risk based pricing and the non-prime lending market has contributed significantly to the recent increases in homeownership rates, especially among low- and moderate-income households.

With the growth of risk-based pricing comes the responsibility to educate consumers about the impact of less-than-timely repayment behavior and inaccurate credit report data on the cost of credit. One provision of this bill—which I strongly supported as did all of the major mortgage lenders—will require that lenders provide every home mortgage borrower with a copy of their credit score, the range of possible scores so borrowers can see where they fall in the spectrum, and the top four factors that lowered their score. The notice further advises borrowers about how credit scores are used and the need to ensure that their credit report information is accurate. The home mortgage transaction is the only one in which such information is provided to borrowers and the mortgage industry should be commended for supporting it.

I am concerned, however, that a second provision of this bill—the Section 311 Risk Based Pricing Notice—may present problems for the mortgage industry because of the complex interaction of underwriting variables that go beyond credit history and extend to property characteristics and borrower financial assets like down payment and reserves. Specifically, I have concerns with the content and timing of the notice, as well as with the difficulty of determining the circumstances under which the notice would be triggered.

There are many variables relating to the pricing and terms of mortgage loans that are unrelated to credit scores. These include whether the loan has a fixed or variable rate, the property type and the condition, the down payment and loan-to-value ratio, the debt-to-income ratio, and the presence or absence of features like prepayment penalties, mortgage insurance or balloon payments. In addition, the pricing of mortgage credit also changes frequently, sometimes several times a day, based upon market conditions or a lender's need for product to meet its production goals. Finally, the interest rate that borrowers pay—even for the exact same loan closing on the same day—will vary widely based on when the borrower locked-in the interest rate. In other words, borrowers who close on the same day may have interest rates that were set weeks apart from one another.

In addition, the final combination of rates and terms will reflect not only credit information, but the nature of the collateral, the financial assets of the borrower and choices made by borrowers based on their own personal circumstances. What is favorable to one borrower—for example, a higher rate in exchange for no closing costs—may not be for another. What is a material term? Just rates and fees? Or is a fixed rate loan better than an adjustable? If a borrower gets a lower interest rate because he or she chooses a prepayment penalty, who gets the notice—the borrower with the lower rate or the one with the prepayment penalty?

The risk based pricing notice in Section 311 asks mortgage lenders to make subjective decisions in order to determine which borrowers received ''material terms'' that are ''materially less favorable'' than the ''most favorable terms'' made available to a ''substantial proportion of consumers.'' In the context of a complicated mortgage transaction, this is a truly daunting regulatory burden fraught with significant compliance and legal risk. I fear that the impact of this risk will force lenders to use fewer risk categories and eliminate product features to ensure that such comparisons are easy to make and pose little risk of compliance error. This will not be good for consumer access to credit or consumer choice.

As to timing of delivery of a notice, I note that information concerning a consumer's credit history and its relationship to the pricing of mortgage products may best be given to the consumer early in the credit granting so that this information can facilitate informed decision-making by the prospective borrower as well as timely consumer review of credit reports to ensure accuracy. Better that every mortgage borrower get an early disclosure about importance of good credit and an accurate report—before they pay application fees and get invested in a home purchase decision—than to get one at the closing table.

Recognizing the challenges associated with implementing a risk based pricing notice in the mortgage context, I urge the regulatory agencies charged with rule making under this Section to report back to the Congress with recommendations for how to make the triggering, timing and content of the risk based pricing notices work in mortgage transactions without exposing lenders to undue compliance and litigation risks. These are issues that—if not addressed through the rulemaking—will need to be reexamined by Congress.

Mr. Speaker, I congratulate my fellow conferees for the significant and important legislation we have produced—the Fair and Accurate Credit Transactions Act of 2003—and urge the House to join with me in approving this measure today.

COMMENDING BELL, BOYD AND LLOYD

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. KIRK. Mr. Speaker, if we relied solely on what is reported on the air and in print, we might believe that soldiers—particularly reservists—enjoy little or no support for their Iraqi mission here at home. I am honored to report that this is not the case by recognizing the Chicago law firm of Bell, Boyd and Lloyd for their outstanding commitment to their junior partner, Captain Todd Pentecost, commanding officer of the 933rd Military Police company of the Illinois Army National Guard serving in Iraq. .

Jack McCarthy, the firm's chairman, rallied Todd's fellow workers in support of this young soldier who has a wife and year-old daughter at home in Bartlett, Illinois. In addition to continuing his salary and benefits, Bell, Boyd and Lloyd sent 29 boxes of gifts to Todd and his unit for the holidays. When Todd left for duty in Iraq last February, the firm committed to

send packages from home every week. The boxes that just arrived for Todd and his unit include books, magazines, videos, DVD's, snacks and personal items. Best of all, 200 of Todd's fellow soldiers will receive a card of their own for 60 minutes of long distance calling time. Three weeks ago three boxes were shipped that included a Christmas tree, decorations, cards, pens and stationery for their personal use.

I applaud the partners of Bell, Boyd and Lloyd for their efforts, not only during this season, but for their caring and compassion throughout the year. Their support of the brave citizen soldiers serving in Iraq deserves recognition. The support of our troops almost always goes unnoticed. I noticed. Many of my colleagues also noticed and we offer our sincerest thanks to Captain Pentecost, his wife, and their supporters at Bell, Boyd and Lloyd.

CONGRATULATIONS TO LEONARD S. FIORE, INC.

HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. SHUSTER. Mr. Speaker, I rise today to congratulate Leonard S. Fiore, Inc. on its 50th Anniversary and to thank the general contracting corporation for its numerous contributions to the community.

For more than four decades, Leonard S. Fiore, Inc. has maintained a strong commitment to people, hard work, and education. The company was founded by Leonard Fiore Sr. in 1954 upon the principle of providing efficient, top quality work at a reasonable cost, and the progress that it has made in the past fifty years confirms the company's dedication to this principle. In 1957 the company completed its first commercial construction project with the erection of the Altoona Skating Center and the St. Rose of Lima Church in Altoona. Since that date, the company has expanded its capabilities and heightened its goals tremendously, having provided jobs to over 250 people and completed over 300 commercial buildings.

As one of central Pennsylvania's leading general contractors, Leonard S. Fiore, Inc. offers demolition, excavation, concrete and steel erection, masonry, carpentry, metal stud and drywall work as well as plastering, painting, and a certified surveyor. Devoted to the belief that ''no job is too large, no need too small,'' every job that the company undertakes receives the same enthusiasm and quality of workmanship. Regardless of the task at hand, the experience and expertise of each and every employee guarantees every project to be completed with the best possible results.

In addition to the organization's excellence in its industry, it has remained extremely loyal to the surrounding community. Leonard S. Fiore, Inc. regularly supports Saint Francis College in Loretto, PA, and Bishop Guilfoyle High School in Hollidaysburg, PA, providing them with financial assistance and volunteer services. Additionally, the company sponsors local little league baseball teams, the Tour de Toona bicycle race, and the annual Fiore Family Golf Classic, which is a popular event that raises money for various community services. Leonard S. Fiore, Inc. has demonstrated an unyielding enthusiasm and care for the public which it serves.

For its incomparable generosity, service to the community, and unabated commitment to excellence, Leonard S. Fiore, Inc. deserves the highest recognition. The company continues to grow and maintain a high level of quality, providing an example that all businesses should follow. I congratulate Leonard S. Fiore, Inc. on its 50th Anniversary and eagerly await its future progress.

MARITIME SECURITY PROGRAM

HON. W.J. (Billy) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. TAUZIN. Mr. Speaker, I rise today to express my appreciation to Chairman DUNCAN HUNTER of the House Armed Services Committee for his successful efforts to reauthorize the Maritime Security Program (MSP) in the recently-passed National Defense Authorization Act for Fiscal Year 2004. The vitally important MSP program will ensure that militarily-useful, United States flag commercial vessels crewed by American citizens are available for this Nation's military and national security needs.

In the MSP program reauthorization, the Congress has ensured that no unreasonable impediments stand in the way of obtaining U.S.-flag roll-on/roll-off, container and other militarily-useful MSP vessels for the transport of military vehicles, supplies and other materiel in support of U.S. military operations around the world. Chairman HUNTER's support was vital to our efforts to clarify the original intent of certain vessel equipment provisions in the Maritime Security Act of 1996 that first created the MSP program. Specifically, it is now clear that existing vessels built to international standards may be documented under the United States flag for inclusion in the MSP program when the telecommunications and other electronic equipment on such vessels meets internationally accepted standards.

As Chairman of the Energy and Commerce Committee, and with my dear colleague from Louisiana, Congressman VITTER, we worked closely with Chairman HUNTER to ensure that appropriate telecommunications and other electronic equipment standards are applied to MSP vessels. When the MSP program was originally enacted, the law provided that a vessel that meets internationally accepted construction and equipment standards may be reflagged under the United States flag for operation in the MSP. That provision was intended to apply to all vessel equipment, including telecommunication and other electronic equipment. The National Defense Authorization Act for Fiscal Year 2004 now clarifies that matter.

Accordingly, it is now clear that a vessel may be added to the U.S.-flag commercial fleet for operation in the MSP program if it is built to international standards, and the telecommunications and other radio equipment aboard the vessels comply with applicable international Safety of Life at Sea (SOLAS) Convention requirements. This is in keeping with the elimination of financial and other burdens that the Congress specifically sought to remove through the establishment of the Maritime Security Program. I would like to again thank Chairman HUNTER and his staff for working closely with us on this matter of critical importance to the military and national security of the United States.

IN RECOGNITION OF THE ACCOMPLISHMENTS OF GORDON PARKS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. RANGEL. Mr. Speaker, I rise today to recognize one of this nation's most distinguished talents in commemoration of his birthday. As a renowned photographer, poet, author, filmmaker and composer, Gordon Parks has secured his place in American society as a true Renaissance man of the arts. Born on November 30, 1912 in Kansas, Mr. Parks grew up the youngest of fifteen children in an environment stricken by poverty and racism. With the guidance of his loving, inspiring parents, he persevered despite his circumstances.

Gordon Parks began his photographic journey at the age of 25, when he bought his first camera, affectionately referred to as his ''weapon against poverty and racism.'' This simple instrument did just that, allowing him to break the constraints of discrimination and rise to greatness as an artist. In 1941, Mr. Parks became the first photographer to receive a fellowship from the Julius Rosenwald Foundation and the following year, he was commissioned by the Farm Security Administration to create a visual record of the lives of America's poor in urban and rural communities. During this project, he captured one of his most popular, compelling photographs, American Gothic, the image of Ella Watson standing in front of the American flag, holding a broom.

He moved on to become the first Black photographer to work at both Life and Vogue Magazines where he coined his unique style of focusing a series on one person to convey a story of humanity. Aside from chronicling the intense emotions of America's poorest, the civil rights movement and the surge of Black Nationalism, Mr. Parks' photographic repertoire also featured images of leading societal figures such as Langston Hughes, Duke Ellington, Ingrid Bergman, Barbara Streisand, Mohammed Ali, and Marcel Duchamp.

Gordon Parks tried his hand in cinema, making eleven films, including ''The Learning Tree'', based on his autobiographical novel, and the 1971 film, ''Shaft''. Mr. Parks has also published twelve books, three about his life, and several are collections of poetry and photography. Musically inclined, Gordon Parks also composed a number of sonatas, concertos, a symphony and a ballet, all of which have been performed internationally.

Mr. Parks has also received a number of awards for his outstanding contributions, including: Photographer of the Year from the American Society of Magazine Photographers (1960 and 1985), induction into The Black Film Makers Hall of Fame (1973), induction into the NAACP Hall of Fame (1984), Governor's Medal of Honor from the State of Kansas (1985), and honorary degrees from thirteen separate academic institutions.

Gordon Parks now resides in New York City and continues to enjoy the recognition earned

by his rich legacy as the premier photojournalist and creative mind of his time.

CENTRAL NEW JERSEY CELEBRATES THE SUCCESS OF NJ/K12 ARCHITECTS BUILD AND BELIEVE PROGRAM

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. HOLT. Mr. Speaker, I rise stoday to recognize the success of twelve apprentice architects and their mentors. These twelve students from Trenton Central High School and Lawrence High School participated in an intensive summer program in which they learned architectural and design skills that allowed them to design two projects. Divided into three groups, each group prepared an original design for a warehouse and a renovation design for a building at Trenton Central High School. Then simulating a business world, they prepared proposals for each project to go to bid. These projects represent hours of hard work, dedication, collaboration and communication among students, mentors and community members. This program is a fine example of teaching practical math skills. It involves identifying a problem, developing an approach to solve it, testing that approach, and eventually implementing a solution.

The students worked under the leadership of three mentor architects, Vince Myers, Harvey Myers and Bob Iamello. They were divided into three studios: Latin Architects in Action, Edgar Gonzales, Byron Zacarias, Judith Rodriques, Raykel Abreu; Professional Building Design Architects, Patrick Alvarado, Shaneeka Ingram, Edvin Zacarias, Brandon Bey; Architect Design Perfection, Leidy Toro, John Frink, Jamie Rodas, Vamey Keita. Working together as mentor and studio, each student learned many skills including design, math computation, teamwork, public speaking, critical evaluation and long-range thinking.

Programs like these reflect my values about the necessity for excellent math and science education. Math is not just another subject. Math is fundamental like reading. A mathematical framework provides us the skill for lifelong learning, for creating progress itself. These are very important skills for the very complex times in which we live.

I ask that all the Members join me in congratulating these 12 students and three mentors for their excellence in using mathematics to design real buildings for real life.

TRIBUTE TO MARY DAVIS ON HER 108TH BIRTHDAY

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. SERRANO. Mr. Speaker it is with great pleasure that I rise today to pay tribute to Ms. Mary Davis, a resident of the Bronx, New York who will turn 108 this month. Ms. Davis is a living testimony to the indomitable spirit of our great nation.

Born December 12, 1895 in Florida, Ms. Davis was the granddaughter of slaves, whom she still has very clear memories of. This incredible woman witnessed an America that almost none of us can say we truly knew; an America that wrestled to establish the ideals of democracy and freedom while continuing to oppress and terrorize those of African descent. However, like many African Americans of her time, Ms. Davis transcended that oppression and in doing so helped bring a nation closer to its great potential.

The proud mother of five daughters, grandmother of 10 grandchildren and great grandmother of 30 great grandchildren, Ms. Davis spent most of her life working as a nanny and housekeeper to support her family. Today, she lives alone in the Bronx and is described by those close to her as being a lovable, God fearing woman who still attends her church, the Great Methodist Baptist Church of Manhattan, regularly.

Mr. Speaker, Ms. Davis lived through two World Wars, the Cold War, Vietnam, and two wars in Iraq. She has seen 20 Presidents enter the White House and witnessed America's role in the world evolve from a non-influential nation to the most powerful nation the world has ever known. She was here before Henry Ford introduced the Model T, and even before the Wright Brothers took their famous flight in Kitty Hawk, North Carolina. There are only a few people on earth who can say that they have witnessed all of these events first hand and Ms. Davis should certainly be proud to be one of them.

For her many contributions to her community and to this nation, I ask my colleagues to join me in honoring Ms. Mary Davis on her 108th birthday.

40TH ANNIVERSARY OF PRESIDENT KENNEDY'S DEATH

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Ms. PELOSI. Mr. Speaker, ''A nation reveals itself not only by [the individuals] it produces, but also by [those] it honors, [those] it remembers.''

President John F. Kennedy spoke these words 40 years ago, less than a month before he was tragically killed in Dallas. On the 40th anniversary of that sad month, which lives so vividly in our memory, America honors and remembers President Kennedy. In doing so, we reveal once more the nation he imagined and the country we might yet become.

Like a generation of Americans, I carry with me strong memories of President Kennedy. As a college student standing on the grounds of the Capitol on a freezing cold January day, I listened to President Kennedy's enduring challenge now known the world over: ''And so, my fellow Americans: ask not what your country can do for you, ask what you can do for your country.''

And I have always remembered the less well-known—but equally important—line that followed: ''My fellow citizens of the world: ask not what America will do for you, but what together we can do for the freedom of mankind.''

Those of us who lived through those awful November days 40 years ago will always remember the shock and never forget the sadness.

Yet on this anniversary we recall not how President Kennedy died, but rather, how he lived; not just the tragedy of a single day, but the triumphs of one thousand days—of a presidency and a President that guides us still.

The first American President born of the 20th Century, President Kennedy embodied the hopes, the optimism, the vigor and the vitality of a new generation of Americans. Inspired by his call to cross a New Frontier, America began a bold journey that would take us to the moon. Young, idealistic Americans entered public service and joined the Peace Corps. Courageous African-Americans became Freedom Riders, challenging the evils of segregation and leading to the greatest demonstration for justice in American history—the 1963 March on Washington.

A veteran of World War II, President Kennedy knew that in those dangerous days of the Cold War, military strength was essential, yet ''war need not be inevitable.'' Through the crisis over Berlin and 13 days in October 1962, his resolve averted the unthinkable. And through it all he knew something we must never forget—America stands strongest when it stands with friends and allies.

Yet this Cold Warrior also knew that true and lasting peace demands the elimination of the fury of despair and instability that plagues too much of the world. President Kennedy's vision of a future where ''the weak are safe and the strong are just'' inspired those young Peace Corps volunteers to build a better world—combating poverty, illiteracy, disease and hunger.

A man of deep faith, President Kennedy knew that ''here on earth God's work must truly be our own.'' And so this man of privilege challenged the nation to reject private comfort for the public interest to fight for higher wages for workers, housing and medical care for the poor, dignity and security for the elderly. And although he did not live to see the day, his vision of a more just America would come closer with the Civil Rights Act of 1964.

Ever since his death, Americans have wondered—how might the days and years that followed have been different had he lived? Perhaps the more important questions might be—have we lived up to the challenge he issued so long ago? Have we kept alive the spirit and high purpose that he kindled? Have we achieved the national greatness that he imagined?

Forty years later, President Kennedy challenges us still. As we remember his death, let us rededicate ourselves—as a people, as a nation—to the principles and vision that defined his life. On this somber anniversary, there can be no higher tribute.

LUISA DELAURO'S 90TH BIRTHDAY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Ms. DELAURO. Mr. Speaker, I rise to congratulate my mother, Luisa DeLauro, as she celebrates her 90th birthday on December 24th. She is—in every sense of the word—a remarkable person—someone who made a good life for herself and her family from the humblest beginnings.

From her, I learned the values I carry with me to this day—she taught me the meaning of

hard work, of family and community. When I grew up, she worked in a sweatshop, sewing shirt collars for pennies. Everyday she would make me come by after school to see the horrible, cramped conditions. It is something I will never forget. The lesson was clear: work hard. Make something of yourself. Get a good education.

She took her own lessons to heart, retiring 4 years ago after 35 years on the New Haven Board of Alderman—the longest serving member in its history. During that time, she touched countless lives. I will always remember the people sitting around my parents' kitchen table in Wooster Square in New Haven. There, I witnessed firsthand how she and my father helped solve the problems of people in our neighborhood.

My mother knew the importance of helping people—she understood that politics was an avenue for change. She also understood that women had an obligation to participate in the political process. When I first ran for Congress in 1990, I found an article my mother wrote in the 10th ward Democratic newsletter in 1933—70 years ago. Amazingly, she wrote:

It is not my intention to be critical, rather my motive in writing this article is to encourage the female members of this organization to take a more active part in its affairs. We are not living in the middle ages when a woman's part in life was merely to serve her master in her home, but we have gradually taken our place in every phase of human endeavor, and even in the here-to-for stronghold of the male sex: politics. I have noticed that the girls, unlike the men, are timid in asserting themselves, and many a good idea is lost, having been suppressed by its creator. Come on girls, let's make ourselves heard.

And so, mom, I want to take this opportunity to say, ''You made yourself heard.'' You continue to make us all proud. Thank you and congratulations on your ninth decade. You are your daughter's greatest inspiration.

HALLIBURTON

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. WAXMAN. Mr. Speaker, over the past two months Rep. JOHN DINGELL and I have written to the White House several times seeking an explanation for the high prices Halliburton is charging to import gasoline into Iraq. We have repeatedly expressed concern that Halliburton has been paid an average price of $2.64 per gallon to import millions of gallons of gasoline from Kuwait into Iraq.

Halliburton's price is more than double what others have paid to import gasoline from Kuwait into Iraq, including Iraq's state-owned oil company, SOMO, and the Pentagon's own Defense Energy Support Center. In addition, independent experts I consulted have called these charges a ''huge ripoff'' of the taxpayer.

Gasoline imports are one of the single largest expenditures of U.S. reconstruction efforts in Iraq. To date, nearly $450 million has been spent on gasoline imports, and an additional $690 million has been appropriated for gasoline and other fuel imports in 2004. Literally hundreds of millions of taxpayer dollars are at stake.

Despite these enormous costs, the White House has consistently refused to address this issue. The White House has refused to respond to our inquiries or offer any explanation for the high costs being paid by the taxpayer. Today, I call on the White House to immediately investigate this matter and respond to the concerns raised in our letters.

TRIBUTE TO CAROL DODO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a talented rancher from New Castle, Colorado. Carol Dodo is a family-oriented rancher who has been feeding the citizens of Colorado for forty years. Carol is an intelligent educator and active participant in the beef industry and I would like to join my colleagues here today in recognizing her tremendous service to the New Castle community.

The Colorado Cattlemen/Cattlewomen's Association recently named Carol Dodo Cattlewoman of the Year for her long-time dedication to her trade. Carol runs a cow-calf organization at West Elk Ranch north of New Castle. She has been in the ranching business since the mid-fifties and has increased her involvement in the industry over the years by promoting and educating people about the benefits of eating beef. Despite the dwindling number of ranching operations over the years, the Dodo family maintains that raising cattle is a rewarding occupation.

Mr. Speaker, Carol Dodo is a dedicated individual who is actively involved in the organization and facilitation of the beef industry in Colorado. Carol has demonstrated a love for ranching that resonates in her compassionate and selfless service to the Colorado Community. Carol's enthusiasm and commitment certainly deserve the recognition of this body of Congress. Congratulations on your award Carol, I wish you all the best in your future endeavors.

HONORING THE PEREZ BROTHERS

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate the Perez Brothers upon their induction into the 2003 Stanislaus County Ag Center Foundation Ag Hall of Fame. Their contributions to agriculture have been felt across the nation. The brothers, Tom, Earl, Daniel, and Mike, will be honored at the 2003 Ag Hall of Fame Dinner on December 4 at the Stanislaus County Ag Center in California.

The Perez Brothers have been leaders in the agricultural industry since the 1940s, but the legacy was started earlier by their father, Juan, in northern Spain. In the early 1900s, the search for greater opportunities led Mr. Perez to California. In 1936, the family moved to the San Joaquin Valley and started farming 280 acres. Their father had visions of the valley being rich in agriculture. Today, with an operation that stretches nearly 80 miles, the brothers farm over 8,000 acres of melons, beans, cotton, tree crops, and, most-notably, tomatoes. The family is one of the largest tomato shippers in the country.

The family's commitment to the environment and to agricultural and community organizations has been evident through the years. The brothers have served on several boards and committees and offer their time to numerous community organizations. Harvesting with the latest and cleanest machinery, as well as the support offered for research and improvements in farming, have earned the Perez Brothers an earth-friendly reputation.

Mr. Speaker, it is my pleasure to commend the Perez Brothers for their induction into the 2003 Stanislaus County Ag Center Foundation Ag Hall of Fame. I invite my colleagues to join me in wishing the Perez Brothers continued success.

IN MEMORY OF NARAYAN D. KESHAVAN

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to the memory of Narayan Keshavan who passed away suddenly and unexpectedly last week.

Keshavan worked for me from January of 1998 until June of 2001. During much of that time I was the Co-chair of the Congressional Caucus on India and Indian-Americans and Keshavan helped me stay abreast of the issues facing India and Indian-Americans and stay in contact with the vibrant community here.

Keshavan had a love for two countries. His adopted home, the United States and his ancestral home, India. So few people modestly and selflessly served to help U.S.-India relations through such dramatic periods of growth and change. Keshavan was an early and vocal advocate for a different kind of relationship between the oldest and largest democracies in the world. He saw the possibility, in fact the necessity, of India and the United States working closely together well before it was evident to leaders in either country. In a clear example of bringing the two cultures closer together, Kesh was one of the Indian Americans who made the October 23, 2003 First Deepavali Event at the White House happen.

Born May 31, 1950 in Hyderabad, India, Keshavan was a graduate of Andhra University (Visakahapatnam, India) where he received a BA in Pharmacy and Osmania University (Hyderabad, India) with a BA and MA in journalism. Over his impressive career as a journalist, Kesh was respected for his vision and commitment to politics and Indo-U.S. Relations. In addition to working for the Congressional Caucus on India and Indian-Americans, he was the Founder and Executive Director of the Indian American Republican Council, and President of the Indian American Forum for Political Education (NYC and LI chapter). He also was a founder of the Indo-U.S. Parliamentary Forum. He served as a mentor to countless individuals of all ages and faiths, deeply touching the lives of many here and in

India, even those he knew only a short time. People loved Kesh for his honesty, intelligence and humor.

Kesh passed away on Thursday, November 13 after he appeared on CNN in a interview with Lou Dobbs where he defended India in the growing political issue of outsourcing. Keshavan is survived by his father and sister.

I ask all my colleagues to join me in paying tribute to a journalist, public servant and tireless community activist, Narayan Keshavan.

RECOGNIZING WOODS-VALENTINE MORTUARY'S 75TH ANNIVERSARY

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. SCHIFF. I rise today to honor Woods-Valentine Mortuary in Pasadena, California. Woods-Valentine Mortuary, one of the oldest African-American, family-owned and operated businesses in the twenty-ninth Congressional District, is celebrating its 75th anniversary on December 14, 2003.

The James Woods Funeral Parlor, located at 87 S. Vernon Avenue in Pasadena, was founded in 1928 by James and Annie Mae Woods. In 1950, after the death of Mr. Woods, his nephew Fred W. Valentine continued to run the business for Mrs. Woods. In 1954, Fred and his wife, Arzella, purchased the business and it became the Woods-Valentine Mortuary. The Valentines relocated the business to its current location at 1455 N. Fair Oaks Avenue in 1963 and built a new structure, which received a Pasadena Beautiful Foundation award for architectural design and color coordination.

Woods-Valentine Mortuary has a well-deserved reputation as a professional, compassionate and dignified business. The mortuary staff members serve the community not only by offering counseling and funeral services, but also by their immense community and civic involvement.

Fred and Arzella Valentine have served on the boards of many professional and civic organizations, such as the Los Angeles County Funeral Directors Association, the National Funeral Directors Association, the California Board of Funeral Directors, the Pasadena Altadena Links, and the Soroptomist Club. The Valentines are also members of many civic organizations including the San Gabriel Valley Black Business Association, the Pasadena Chamber of Commerce, the Pasadena Urban League, and are lifetime members and past board members of the Pasadena NAACP. In addition, the Valentines have sponsored Northwest Pasadena Little League teams for forty years, volunteered for many years in Pasadena's public schools and libraries, and contribute annually to many scholarship funds. They are also active in their church, Friendship Baptist Church.

Woods-Valentine Mortuary is truly a family-owned business. Fred and Arzella's daughters, Janyce Valentine and Gail Valentine Taylor, are part owners. Arzella's sister, Vannie Brown, Fred's brothers, Clifton Valentine (who died in 1999) and James Adkins, along with Laven Lanier, James Barker, Ernest Gomez, Lenston Marrow, James Ross, Leo Vaughn, Julius Henderson and Juan Wooden, are other members of the ''Woods-Valentine Mortuary family'' who have greatly contributed to the success of the business.

I ask all Members to join me today in honoring Woods-Valentine Mortuary for its 75 years of dedicated service to the community.

HONORING N.A. ''TURK'' BAZ

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. DAVIS of Tennessee. Mr. Speaker, I rise today to salute and honor Turk Baz. I have known Turk for many years, and he is a testament to the service, dedication, and diligence to his listeners on the local radio by providing daily weather updates.

Turk, a veteran radio broadcaster and owner of WDEB FM/AM, has been a fixture in Fentress County, Tennessee, for many years. He was recently honored by the National Weather Service for his more than 20 years of service by presenting him with its John Campanius Holm Award. The annual award goes to 25 individuals among the agency's 11,000 plus volunteer weather observers: The award has been given since 1959.

One of his greatest qualities is his modesty. During the acceptance ceremony, he said he was accepting the award on behalf of his radio station's staff and the many volunteers who are part of the Fentress County Emergency Service Organization. Fentress Countians are blessed to have someone like Turk looking out for them.

HONORING THE STATE WINNER AND NATIONAL FINALIST FOR RECOGNITION OF OUTSTANDING COMMITMENT TO THE COMMUNITY

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. WELLER. Mr. Speaker, I rise today to honor Monical's Pizza Corporation (Monical's) for being the State winner and national finalist for Recognition of Outstanding Commitment to the Community and being awarded the Restaurant Neighbor Awards. This is the 5th annual year for the award.

One day a week, for 17 weeks, youths participating in the D.A.R.E. (Drug Abuse Resistance Education) program receive an education on drug abuse resistance. Monical's saw this as an opportunity to help reach out to youths before drug addiction starts. Since 1990, the restaurant has handed out more than 200,000 free pizza certificates to children who complete the D.A.R.E. program—a contribution totaling more than $1 million.

Monical's commitment to D.A.R.E. began with a simple collaboration with the Lincoln, Illinois, police department to donate pizzas to students who graduated from D.A.R.E. Today, Monical's extends this opportunity to every community D.A.R.E. program located near one of their 50-plus restaurants. This translates into a value of more than $1 million. Students also receive a coupon for a Monical's Family Pleaser so they can bring the entire family for a celebration of their graduation.

Mr. Speaker, I urge this body to identify and recognize other companies in their own districts whose actions have so greatly benefitted and strengthened America's families and communities.

CAPT GEORGE A. WOOD—A NATION MOURNS HIS LOSS

HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. BOEHLERT. Mr. Speaker, the people of New York's 24th Congressional District and America suffered a terrible loss on November 20, 2003. U.S. Army Captain George A. Wood, originally of Marcy, New York, died while valiantly serving his country in the War in Iraq. He paid the ultimate price to ensure our liberty. He gave his life so that the people of Iraq could live without repression and fear—and he gave his life so that Americans could feel safe to live their lives under a blanket of freedom. That freedom comes with a high price and we are eternally grateful for his dedication and commitment to the ideals that we hold dear.

Captain Wood personified the qualities and dedication that make our U.S. military the greatest armed forces in the world. As a young man in the Mohawk Valley, Captain Wood excelled in both academics and athletics. He was known as a ''history buff,'' going on to earn a bachelor's degree from the Ivy League's Cornell University. He continued his education by earning master's degrees at both State University of New York-Cortland and State University of New York-Albany. Captain Wood's athletic endeavors led him to captain the Notre Dame Junior-Senior High School football team in his senior year. He hoped to one day share his love of football as a coach at the West Point Military Academy.

Captain Wood was assigned to the Army's 4th Infantry Division based in Fort Hood, Texas. He was killed while on patrol when his tank rolled over an improvised explosive device.

I ask my colleagues in the House, and all Americans, to extend our prayers and sympathy to his wife Lisa and their 3-year old daughter Maria, Captain Wood's mother and stepfather Maria and Michael Babula of Marcy, New York, as well as the rest of his family. Together we honor this fallen American hero.

NATIONAL CONSUMERS LEAGUE PRESIDENT LINDA GOLODNER ENDORSES INTRODUCTION OF H.R. 3139, THE YOUTH WORKER PROTECTION ACT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. LANTOS. Mr. Speaker, as you are aware, at the start of the 20th century the state of child labor conditions in our country was so deplorable that it was not uncommon for children to be working 60 or 70-hour weeks

in the hardest forms of labor—in our nation's mines, mills and in the farm fields. It was these conditions that the National Consumers League was created to alleviate.

Through the hard work and dedication of its members, the National Consumers League was able to secure the passage of the Fair Labor Standards Act in 1938. This monumental legislation has been the backbone for ensuring that American workers are treated fairly and humanely. Specifically, the legislation enacted sweeping reforms to the use of child labor in our country that were designed to prevent the exploitation of youth workers.

In the 60 years since the passage of this extraordinary legislation our economy has changed dramatically. It is appalling to learn that in our great country, the occupational injury rate for children and teens is more than twice as high than it is for adults. In fact, the National Institute for Occupational Safety and Health (NIOSH) estimates that every year 230,000 teens are injured on the job. I am certain that all of my colleagues will agree with me that these statistics are a national disgrace and are totally unacceptable for a civilized, advanced society such as ours.

That is why I introduced H.R. 3139, the Youth Worker Protection Act, a bill that will modernize America's child labor laws. I am also honored to report that in 2003, just like 1938, the National Consumers League was instrumental in the drafting of this legislation and I am confident that with their support we will be successful in securing its passage.

I am delighted that Linda Golodner, President of the National Consumers League and a tireless advocate to advance progressive chance in our country was standing next to me when I introduced the Youth Worker Protection Act. Her eloquence on the need for reform to our nation's child labor laws should be shared with our Congressional colleagues, Mr. Speaker, and I therefore request that her statement be placed in the Congressional Record.

STATEMENT OF LINDA GOLODNER

Thank you for coming today. I'm Linda Golodner, president of the National Consumers League and co-chair of the Child Labor Coalition. I am joined today by Congressman Tom Lantos and Maggie Carey from Beverly, Massachusetts.

More than one-hundred years ago, Florence Kelley, first executive secretary of the National Consumers League, led a national effort to press Congress for tough laws to protect working children. Her goal was achieved in 1938 with the passage of the Fair Labor Standards Act, which includes child labor provisions. The Act addresses child labor and the workplace realities of the early 20th century—not the early 21st century. The early reformers would I am sure find it inconceivable that these hard fought child labor laws have not been revisited since that time. Updates to the Fair Labor Standards Act are long overdue. Our nation's most vulnerable workers—many of whom are too young to have a driver's license—deserve 21st-century protection from unsafe and inappropriate working conditions.

The National Consumers League and our more than 40 member organizations in the Child Labor Coalition have been working since for almost 15 years to protect the health, education, and safety of working minors. We have advocated for stronger child labor enforcement and for higher penalties for those who violate the law—especially those that result in a young worker's serious injury or fatality. We have focused on child labor reform that reflects the realities of today's workplaces and today's educational needs.

Young people who choose to have after school jobs should not have to compromise their education to do so. Yet, many do. Under the Fair Labor Standards Act, a 16- and 17-year-old can try to juggle as much as 40 hours of work per week, in addition to their 30 hours of school. Combined, this is more work than is expected of most adults in this country. Whether short-sighted about their own education or facing coercion from employers, many young people work too many hours. Studies show that when teens work over 20 hours a week while school is in session that their grades go down and often alcohol and drug abuses escalates. Many work well over 20 hours a week in after-school and weekend jobs.

Teen worker injuries are also escalating. The National Institute for Occupational Safety and Health has raised estimates on youth worker injuries from 200,000 in 1992 to 230,000 in 1998. Every year, between 60–70 young people die in the workplace. Outdated child labor laws—written in the 1930s—cannot and do not adequately protect our nation's young workers from workplace hazards.

We have high expectations for the passage of the Youth Worker Protection Act. Our highest expectation is that passage of the bill will lead to fewer injuries, fewer deaths, and remove the too often scenario of a youth's first job being his last job. I will leave it to Congressman Tom Lantos to tell you how.

We have high expectations that the passage of the bill will put youth employment in its proper place—as a positive first experience in the world of work. But the first job of any young person today is education—Education that will prepare that teenager to be a productive worker tomorrow.

No teenager expects that they will get hurt on the after-school or weekend job. And, as a nation, we are not assuring young people that the law protects them from harm in the workplace. The passage of the Youth Worker Protection Act would be a step in the right direction. But for now, it is the National Consumers League commitment to teen workers and their parents to arm them with information they need to think twice when choosing that job. Check out www.nclnet.org/childlabor for new materials about laws that do exist and how to avoid dangerous work, including NCL's five worst teen jobs.

This fall, nine American families won't enjoy the back-to-school festivities as usual. Nine families are mourning the deaths of their children over this last summer. The cause of death? Workplace injuries. Every 30 seconds, a young worker under the age of 18 is injured on the job. On average, every five days, one of the injuries is fatal.

Such losses are indefensible. Especially deaths from workplace injuries, which could have been prevented with stronger laws protecting young workers and stronger government commitment to enforcement and prosecution under the law.

HONORING THE HONORABLE ALSON H. SMITH, JR.

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, Mr. WOLF and I rise today to honor former Delegate Alston H. Smith, Jr., an outstanding citizen of Winchester, Virginia, who, for nearly half a century, has served his community and country.

Delegate Smith's successful career began in 1954 when he cofounded Shenandoah Foods 2000, a major employer for the Shenandoah Valley. He served on the boards of both Jefferson Bankshares and First Bank, playing a critical role in assisting the economic development of western Virginia.

Delegate Smith also faithfully served in the Virginia House of Delegates for over 20 years, where he was a Democratic leader and tireless advocate of public education. He was instrumental in the development of the Winchester/Frederick County area, bringing critical improvements to his beloved Shenandoah University.

Delegate Smith not only dedicated himself to the Winchester/Frederick County area, but also worked to bring progress to the entire Commonwealth. For nearly a decade, he served the interests of the coalfields of Virginia as chairman of the House Mining and Mineral Resources Committee.

Delegate Smith certainly has recognized that the surest way to make a difference is to begin in his local community. Additionally, he generously has donated much of his personal time to improving economic development opportunities and education for all Virginians. Delegate Smith loves the Valley and loves Virginia. All of Virginia extends their heartfelt thanks for his continuing role in improving the lives of our children, families, and seniors.

Mr. Speaker, the life and service of this Virginian serves as a shining example to all who wish to improve education and opportunity through civic and community involvement. I ask my colleagues to join me in applauding Delegate Smith.

PAYING TRIBUTE TO KAROL SACCA

HON. SCOTT McINNIS

of colorado

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to an outstanding educator from my district. Karol Sacca from Carbondale, Colorado has dedicated her life to the betterment of young people and I am proud to call her contributions to the attention of this body of Congress and our nation.

Karol has been a teacher for a quarter of a century. She has spent the last eighteen years at Roaring Fork High School, where she is currently the school's librarian. In this position, Karol's endless enthusiasm and tireless dedication to her students has resulted in many accomplishments.

Karol created a student media center at Roaring Fork High School and also spearheaded the creation of many innovative reading programs as well. Karol's voluntary reading programs have attracted the participation of over half of the school's students. This level of student participation is a testament to Karol's ability to connect with her students. Karol's ability and conviction have earned her the respect of educators statewide. She is currently one of four finalists for Colorado's Teacher of the Year Award.

Mr. Speaker, it is my honor to pay tribute to the contributions of Karol Sacca. Karol has achieved a delicate balance between leadership and friendship with her students. Karol's dedication has lead to many young people becoming excited about learning. Thank you Karol for your contributions.

COMMENDING SAINT AGNES HOSPICE FOR 25TH ANNIVERSARY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to commend Saint Agnes Hospice in celebrating 25 years of compassionate care. An open house was held to commemorate this milestone on Monday, November 24th in Fresno, California.

In its 25th year, Saint Agnes Hospice continues to focus on pain and symptom management in patient care, and strives to raise awareness among the public and physicians about the value of Hospice care. Since its establishment in 1978, the organization's main purpose has been to reflect the mission of the Saint Agnes Medical Center by extending Christ's love to the terminally ill and their families; recognizing that each person is unique and deserving of compassion while stewarding the human and financial resources. Their goal is to meet and serve the needs of individuals, promoting dignity, comfort, and peace to enable them to live until they die. Founded by Sister Raphael McGrath, CSC, BSN, MSNE, Saint Agnes Hospice has made it possible for terminally ill patients to live out their final days with dignity in the comfort and privacy of their own home. Hospice focuses on living and maintaining the patient and family's quality of life.

Saint Agnes Hospice has grown dramatically over the years and continues to offer patients and families a variety of levels of care. During fiscal year 2003, it served 346 patients, an increase from 265 patients in 2002. The Hospice Team is staffed around the clock by an outstanding group of individuals; physicians, nurses, chaplains, social workers, and volunteers. The four levels of care available are Routine Home Care, Continuous Home Care, Inpatient Respite Care, and General Inpatient Care. FOOTSTEPS, an expressive arts support group is available for children who have experienced difficult life losses and their caregivers. Finally, Bereavement care is planned and available to support families for a year following the loss of a loved one.

Mr. Speaker, it is my pleasure to congratulate Saint Agnes Hospice on its 25th anniversary. I urge my colleagues to join me in wishing them many years of compassionate care for the citizens of the Central Valley.

THE YOUNG MASHADI JEWISH CENTER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. ACKERMAN. Mr. Speaker, I rise to call to the attention of the House an important event in my district: the groundbreaking for the Young Mashadi Jewish Center in Great Neck on December 14, 2003. I want to offer my best wishes and congratulations to all the men and women who have contributed their time, energy and support to bring this tremendous project into being.

America and New York in particular have been blessed by a growing number of Jews of Iranian descent, who have made an enormous contribution to the health and vitality of our Jewish community. Owing to their bitter experience as a persecuted religious minority in Iran, they—more than most—have come to understand the meaning of the prophet Jeremiah, ''If you will remain in this land, then I will build you up and not pull you down; I will plant you, and not pluck you up. . . .'' The expansion of this community's physical presence through the construction of this center is a sign of continuing growth and maturity, and one which I happily encourage.

Mr. Speaker, as always, breaking ground on a new religious center is a joyous event. Such structures are gifts to the future and expressions of our most admirable goals for our posterity. The Young Mashadi Jewish Center in Great Neck will include classrooms and a playground for children, a youth center for young adults, a recreational lounge to accommodate social, cultural, and educational programs for the community seniors, and other spaces available to host all those events which connect individuals and families to their community.

This center will be built with love, dedication, determination and an abiding faith in the future of the Jewish people. In short, it will be a center that reflects the values of the people who built it.

Mr. Speaker, in the Jewish faith, when a book of study is completed, the accomplishment is celebrated by offering encouragement to immediately return to the work ahead. The groundbreaking of the Young Mashadi Jewish Center in Great Neck is a great step forward, a real achievement. But it is a step which only promises greater things. In the days ahead, I know the whole House will join me in saying ''Chazak! Chazak! v'Nitchazayk!'' (Be strong! Be strong! And may we be strengthened!)

IN RECOGNITION OF THE SOUTH PASADENA KIWANIS CLUB'S 80TH ANNIVERSARY

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to honor the South Pasadena Kiwanis Club upon its 80th anniversary.

Kiwanis is a worldwide service organization of women and men who share the challenge of community and world improvement. Since its founding in 1915, Kiwanis has grown to include approximately 9,000 clubs in more than 80 nations.

The South Pasadena Kiwanis Club, founded in 1923, consists of business and professional people who work or live in the South Pasadena area that have an interest in volunteer service. A family-oriented organization, South Pasadena Kiwanis members are committed to serving the youth, families and senior citizens of South Pasadena.

Some of the club's charitable contributions include the South Pasadena Educational Foundation, Farm City Youth, Special Olympics, the Summer Reading Program, ''Terrific Kids,'' the Young Men's Christian Association, ''Concerts in the Park,'' and Little League. The South Pasadena Kiwanis Club is the main sponsor for South Pasadena High School's Key Club and ''Grad Night'' Breakfast, in addition to providing student scholarships at the high school, middle school and elementary schools. In addition, some of the club's annual events include a Fourth of July Pancake Breakfast, a Spaghetti Dinner in conjunction with the South Pasadena Fire Department, and participation in the construction of the city of South Pasadena's Rose Parade Float.

The time, energy and care that the South Pasadena Kiwanis Club has given to the community are extraordinary, and the residents of South Pasadena have benefited greatly. At this time, I ask all Members to join with me in commending the South Pasadena Kiwanis Club for 80 years of dedicated service to the South Pasadena community.

HONORING CHANA LYMON

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. DAVIS of Tennessee. Mr. Speaker, teaching is one of the noblest professions I can think of. I rise today to honor one of those teachers. Her name is Chana Lymon. Chana is the Director for Sylvan Career Starters in Columbia, Tennessee. She recently received the Educator Excellence Award from Sylvan Education Solutions. This award is presented to individuals who meet and exceed all of the standards of Excellence and Program Management. Award winners have developed well trained motivated teams and ensure that all service activities meet Sylvan standards.

The Career Center serves youth ages 18–21 who have dropped out of school or have not been able to complete traditional high school due to a barrier such as teen-parenting, truancy, delinquency, debilitating illness, or an academic deficiency. The centers help students prepare for the GED and State TCAP or Gateway tests. They also offer employability and work assistance as well as computer literacy training.

It has become evident through their work that Ms. Lymon and her staff strongly believe in promoting the importance of self-worth. Self-esteem is the most important factor that will go hand in hand with success. I congratulate Ms. Lymon and her staff for promoting education as the key to a better future.

TRIBUTE TO THE 2003 PEOPLE AND PERFORMANCE AWARD WINNERS

HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. WELLER. Mr. Speaker, I rise today to honor Monical's Pizza Corporation (Monical's) for receiving the People and Performance Award (PAPA) during the Multi-Unit

Foodservice Operators 2003 National Conference.

Nation's Restaurant News and Coca-Cola North America established the national PAPA awards to honor multi-unit chains for excellence in employee recognition, retention and recruitment. Monical's President Harry Bond received the PAPA award for retention.

For the past 14 months, Monical's achieved 0 percent turnover for restaurant general managers, team leaders, regional trainers, and support center coordinators. Very few companies can boast of the same accomplishment. Monical's attributes their low turnover rate to several company incentives such as: evaluation of restaurant management at least once a year; all restaurant management and support staff team members receive the same health insurance and profit sharing benefits as the president of the company; the company's policy of a flexible scheduling strategy; and a 50 percent discount on Monical's meals for employees.

Monical's also values their employees who also have families. The majority of management personnel work between 42–45 hours per week and are eligible for two weekend days off per calendar month so their managers are able to enjoy an active and productive family life as well as a life at work. Monical's also encourages their employees to bring their children to work for the day. This allows the children to see where their parents work and have a day of fun working in a restaurant or office.

Mr. Speaker, I urge this body to identify and recognize other companies in their own districts whose actions have so greatly benefitted and strengthened America's families and communities.

STATE UNIVERSITY OF NEW YORK, ONEONTA COLLEGE NCAA WOMEN'S SOCCER CHAMPS

HON. SHERWOOD BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. BOEHLERT. Mr. Speaker, I would like to take this opportunity to congratulate the State University of New York College at Oneonta women's soccer team for their come-from-behind, emotional victory to win their first ever NCAA National Championship on November 11, 2003.

The tying goal scored in the final seconds of regulation will forever remain a great moment in Red Dragon history. It will also remain a vivid moment of victory of each one of the team's members—for without their collective talent and dedication, it would not have been possible.

Head Coach Tracey Ranieri deserves special praise for leading this fine group of student athletes to the highest possible achievement in women's Division III soccer. Through Coach Ranieri's leadership these young ladies have proven that hard work and dedication on the practice field and in the classroom can produce champions on the playing field and in academics.

I take great pride in representing the State University of New York College at Oneonta. What I find truly special is while the opponent in the National Championship Game, The University of Chicago, boasted a lineup that featured players from across the country; Oneonta's roster was almost completely comprised of New Yorkers. What pride they bring not only Oneonta, but to the entire State of New York.

The 2003 Oneonta Women's Soccer team: Amanda LaPolla of New Hartford, NY; Jami Leibering of Kendall Park, NJ; Laura Morcone of Mechanicville, NY; Holly Bisbee of Burnt Hills, NY; Patricia DiMichele of Centereach, NY; Alissa Karcz of S. Huntington, NY; Kelly Stevens of Rochester, NY; Cassie Perino of Patchogue, NY; Sanada Mujanovic of Centereach, NY; Patricia Jeager of Baldwin, NY; Liz Fermia of Rochester, NY; Leslie Small of Clifton Park, NY; Rose Velan of Stamford, NY; Brooke Davis of Grand Gorge, NY; Sarah Tauber of Valley Stream, NY; Cristina Gaspar of New Rochelle, NY; Alex Desousa of Blauvelt, NY; Candance Grosser of Levittown, NY; Meghan Putnam of Syracuse, NY; Colleen Wolbert of Rotterdam, NY; Corinne Tisei of New Hyde Park, NY; and Brittany Gates of Syracuse, NY.

DEDICATING H.R. 3139, THE YOUTH WORKER PROTECTION ACT TO THE MEMORY OF ADAM CAREY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. LANTOS. Mr. Speaker, according to the National Institute for Occupational Safety and Health (NIOSH) an average of 230,000 teenagers are injured on the job each year and even more shocking is the fact that an average of 67 teen workers die each year from injuries sustained while on the job. That means a teen worker dies from work related injuries in this country every 5 days.

These are horrific statistics, and I believe that Congress must enact legislation to prevent these unnecessary deaths. The grave nature of these unfortunate accidents is made clearer when given a human face. While I was preparing this legislation, I discovered the story of Adam Carey, a 16 year-old boy who died while working on a golf course in Massachusetts. Adam's death was the result of an accident while he was driving a golf cart between the clubhouse and the driving range. Under Massachusetts state law, youths Adam's age were prohibited from driving golf carts.

I was honored to stand by Adam's mother, Maggie Carey when I introduced H.R. 3139, the Youth Worker Protection Act, to modernize our nation's child labor laws. Among other things, the Youth Worker Protection Act would increase the penalties for employers who violate laws designed to protect children.

I am proud to dedicate this legislation to her son's memory and I ask that her poignant story be included in the CONGRESSIONAL RECORD so that my colleagues can humanize statistics of young workers who die from injuries suffered on the job once every 5 days.

STATEMENT OF MAGGIE CAREY

Good Morning. I'd like to begin by telling you a little bit about myself, my family, and what has brought me here today. Again, my name is Maggie Carey. I am from Beverly, Massachusetts, a small city on the north shore of Boston. I have worked as an Obstetrical Register Nurse, with my focus being Labor and Delivery, for over 30 years. My husband Richard works in maintenance and grounds keeping for a local hotel chain. We have been married for 30 years and were the proud parents of 3 beautiful children. Our oldest daughter Robin is 28 years old and has met the challenge of Downs Syndrome, Leukemia and open-heart surgery. Our son Jonathan who will be 27 in November has had open-heart surgery as a child as well, now works successfully in the computer software field in California. Our youngest son Adam would have been 19 this past March.

Through the years as parents, one of our roles was to teach our children the importance of responsibility for themselves and as part of a community. We hoped to show them through example, what that means and how to achieve it. In that way they would become successful, productive, and ethical young adults.

We began at an early age encouraging them to have their own paper routes. Even our daughter Robin was able to have one with our assistance. As they got older, we encouraged them to have part time jobs after school, on weekends and during summer vacations. Our daughter as a volunteer would come to work with me on weekends and collate blank charts to be used when new patients arrived. My son Jonathan worked as a bagger and cashier at a local grocery store. We continued to teach them the value of a dollar, how to earn it, save it, and manage it appropriately. Little did we know that by trying to teach these important values it would cost us dearly.

In August of 2000, our then 16-year-old son Adam began working at a local country club as a bag room attendant. On September 16, 2000, only 3½ weeks later, his life would come to an end while working at a job that seemed so perfect for him. Adam loved golf, people and being outdoors. He was driving a golf cart as part of the job. He was using the cart to retrieve golf balls, wash them, and return them to the golf barn. He had been in the pro shop just prior to the accident and we were told that when he got back on the cart he hit a deck that was only about 10 feet away. On impact Adam's heart was ruptured. Supposedly no one witnessed the accident even though it was the busiest day of the season at the club and it was right near the practice green, so exactly what happened is unknown.

What we do know is the devastating effect that the loss of our son has had on our entire family. What we also know is that child labor laws had been violated and continues to be violated every day in our country. Approximately 20 or so violations were found that day alone. Most importantly the one affecting Adam under Massachusetts General Laws, which prohibits anyone under the age of 18 from operating any type of motor vehicle of any description while employed.

Many people and agencies investigated the accident, but the only action taken against the employer was a $1000 fine by OSHA for having failed to report the accident within 8 hours. The Attorney Generals Office opted not to pursue any action, because the only avenue they have is through the criminal courts. They rarely prosecute unless the company is guilty of grossly repetitive behavior. Supposedly this was the employer's first offense, but in reality it was the only time they were caught. Even though the law is clear, it has become acceptable practice for teens to operate these carts for many years now due to non-enforcement. Since when can a death not be considered serious enough to pursue charges? So, is it the second, third or one-hundredth death they may pay attention to.

From what I have learned, even if they had pursued the case and had found them guilty, the punishment is so minimal that it is not financially sensible to spend the money and resources to enforce these laws.

Most of the child labor laws have not been updated since the 1930's. As we all know the world we live in is very different 70+ years later. What few changes that have been made have been to weaken the laws. We as a society have had much to say about child labor in other countries, yet we do nothing about our own. SHAME ON US!!! We spend a lot of time looking at issues, making laws, but that is wasted time and energy if we aren't out there enforcing them. It is vital for our children's future to have adequate ways and means to penalize the offenders.

And then there are workman's compensation laws, which you would think would encourage employers to put child safety first. Again this is not true. For teens, the employers financial liability is minimal because the majority of them do not have dependents and their jobs are temporary and part time. This again is not an incentive for employers to obey the laws. I am not saying all employers are not concerned about teens safety. Some are very responsible. Others aren't even aware of most of these laws, although it is their responsibility.

Our family has endured many trials and tribulations through the years. We have always been able to pick up the pieces and continue on with the help of loving, supportive family and friends. The death of our beloved son Adam has been almost too much to bear. How do we fill the huge gap in our hearts that used to be Adam? He was so full of life and had so much love to give. His friends describe him as always happy with a smile on his face. He would do anything to make people laugh. We miss that smile! We miss his energy! We miss his whole being!

What do we tell his special needs sister Robin when she asks almost every day, why can't we bring him back? There are really no words that can express fully to anyone what losing a child does to your soul. I hope that none of you will ever know how this feels. We go on each day. We go to work. We maintain our home, because we must, for the rest of our family. But nothing will ever be the same.

What I am here today to say is that this should never have happened and that there are many ways that we can address these issues. The availability and easy access to educational materials for parents, young workers and especially employers must be improved.

The proposed legislation that Congressman Lantos is submitting today will address some of these issues. One of these being civil penalties in an amount that would have a significant impact on employers. If there is anything that we can do in memory of our son it would be to somehow prevent this from happening to another child, another family.

Thank you and God bless and guide you in all the decisions you make.

TRIBUTE TO VIRGINIA LAW ENFORCEMENT OFFICERS

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor the Virginia law enforcement officers, and those throughout the nation, who have lost their lives this year in service to their communities. Every day, these men and women display their courage, commitment and service to their fellow man. The National Law Enforcement Officers Memorial recently held a wreath laying ceremony here in Washington, DC to honor these eight brave officers who gave their lives to protect us, the citizens of Virginia, and I would like to take a moment to recognize, remember and honor these individuals.

On January 12, Henrico County Police Officer Andre Booker was attempting to use his patrol vehicle to stop a person suspected of firing gunshots in a shopping center when his car crashed through a fence and landed in an icy pond. Six other officers at the scene were unsuccessful in freeing Officer Booker from his vehicle. He was 26 years old.

On January 16, 39-year-old Norfolk Police Officer Sheila Herring was killed after responding to reports of gunfire inside a bar. The suspects opened fire on the responding officers, fatally wounding Officer Herring. She worked with Norfolk Police Department for 11 months and had recently moved from Detroit, Michigan, where she spent 10 years as a law enforcement officer.

On January 29, Virginia State Trooper Michael Todd Blanton was killed by a drunk driver he had pulled over on Interstate 64. As Trooper Blanton attempted to reach into the car, the driver sped off, dragging Trooper Blanton until the car crashed, pinning him under the vehicle. Trooper Blanton is survived by his wife and 6-year-old son.

On May 9, 20-year law enforcement veteran Scott Allen Hylton of the Christiansburg Police Department was shot and killed after responding to a report of a hold up at a convenience store. Officer Hylton was shot and killed as he exited his cruiser at the scene. Also a member of the Army National Guard, Officer Hylton was the father of four.

On May 28, Officer Ryan Cappellety of the Chesterfield County Police Department, a recent graduate from the police academy, was shot and killed when he and other officers responded to reports of gunshots. Upon arrival, a suspect standing on his front lawn with a gun opened fire on the officers, fatally wounding Officer Cappellety. He was 23 years old.

On June 23, Officer Rodney Pocceschi of the Virginia Beach Police Department was shot and killed during a traffic stop on Dam Neck Road in Virginia Beach. Officer Pocceschi served the Virginia Beach Police Department for 4 years and is survived by his wife and young son.

On July 30, Richmond Police Officer Douglas E. Wendel was shot and killed by a suspected drug dealer. Officer Wendel had been with the Richmond Police Department for 5 years. He was a 41-year-old father of three.

On August 26, Sergeant Rodney Davis of the Greene County Sheriff's Department was shot and killed while serving an arrest warrant on a narcotics suspect near Standardsville, VA. As Sergeant Davis and other officers searched the house, the suspect opened fire and fatally wounded Sergeant Davis. Davis worked with the Greene County Sheriff's Office for 2½ years but had been in law enforcement since he was 19 years old. The 30-year-old left behind an expectant wife and two young children.

Mr. Speaker, the eight officers killed in the line of duty this year matches the highest total of law enforcement officer fatalities in the Commonwealth's history. Nationwide, there have been 114 law enforcement officers killed this year, a grim reminder of the vital and dangerous role these officers play in our national well-being. We are all eternally grateful for the service and sacrifice of these true American heroes.

TRIBUTE TO THE ALAMOSA COUNTY CHAMBER OF COMMERCE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to the Alamosa County, Colorado, Chamber of Commerce. The Chamber recently celebrated eighty years of service to Alamosa, and it is my honor to call the attention of my colleagues and this nation to all that the Chamber does for the citizens of Alamosa.

The Alamosa County Chamber of Commerce was incorporated in 1923. The original building was lost to fire in 1907. Recognizing the importance of the Chamber, the city rallied together and built a new building the following year.

The Chamber has a strong tradition of excellent leadership and a dedicated staff. Since its inception, the Chamber has focused on the organization and health of the County's economy. Able and dedicated staff members always greet each citizen with a smile.

In addition to traditional activities, the Alamosa Chamber of Commerce has always gone beyond the call of duty to be involved in the community. The citizens of Alamosa have traditionally used the Chamber as a meeting place for community events. There are often cribbage tournaments, banquets and charity events throughout the year. In addition, the Chamber funds scholarships for young people, has worked to improve the County's emergency response system, and is also involved in various projects such as the promotion of recycling.

Mr. Speaker, it is my privilege to rise and pay tribute to the Alamosa County Chamber of Commerce. The Chamber works tirelessly for the betterment of Alamosa County and I am honored to pay tribute to its contributions. I am pleased to join the people of Alamosa County in thanking the Chamber of Commerce for its hard work and many contributions.

HONORING LARRY CARTER

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. RADANOVICH. Mr. Speaker, I rise today to commend Larry Carter for his induction into the 2003 Stanislaus County Ag Center Foundation Ag Hall of Fame. On December 4th, he will be honored at the 2003 Ag Hall of Fame Dinner at the Stanislaus County Ag Center in California.

The Stanislaus Ag Center Foundation honors individuals who work to make agriculture Stanislaus County's number-one industry. Mr.

Carter's contributions to agriculture and his community have helped agriculture in the county achieve this status. After receiving his Bachelor of Science in Animal Husbandry from California Polytechnic University in 1952, Larry served in the United States Navy for 4 years. Between 1963 and 1972, he ran his own laying hen ranch. For the following 15 years, he served as Executive Manager of the Stanislaus County Farm Bureau while farming 25 acres of almonds. Since 1987, Mr. Carter has worked for Stanislaus Farm Supply.

Larry's dedication to the community and agriculture organizations has been evident through his work as a volunteer. He has worked with the Denair Lions Club, Hughson 4–H, Modesto Chamber of Commerce, Stanislaus County Jail Site Committee, Stanislaus Ag Foundation, and many others.

Mr. Speaker, I rise today to congratulate Larry Carter for his induction into the 2003 Stanislaus County Ag Center Foundation Ag Hall of Fame. I invite my colleagues to join me in thanking Larry for his dedication and hard work.

IN RECOGNITION OF THE MARATHON JEWISH COMMUNITY CENTER AND ITS RABBI GARY GREENE

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. ACKERMAN. Mr. Speaker, I rise today to pay tribute to the Marathon Jewish Community Center in Douglaston, New York and its new Rabbi Gary Greene who officially took the reins on December 7, 2003.

The Marathon Jewish Community Center is a conservative synagogue which has served the communities of Douglaston, Little Neck, Bayside and Great Neck for more than 50 years. The facility includes a religious school, a junior congregation and adult education programs.

Earlier this year, the synagogue recruited Rabbi Gary Greene from Temple Shalom in Framingham, Massachusetts. Prior to his service there, Rabbi Greene served the members of Congregation B'Nai Jacob in Longmeadow, Massachusetts. While at Temple Sholom, Rabbi Greene helped to revitalize Adult Education, and for his efforts was the recipient of the Solomon Schechter Award for Adult Education. Among other accomplishments, Rabbi Greene has expanded the social and cultural programs of the Temple and introduced services and rituals, including Selichot, Tashlich, Healing Services and Meditation Services.

Rabbi Greene has also dedicated himself to teaching. Over the years, he has educated and enlightened thousands of children and adults. He taught most grades at the former United Hebrew School and served on its Board of Directors, Education Committee and Rabbis' Committee. He was instrumental in the creation of B'nai Jacob's Hebrew School and the B'yachad Hebrew High School. Rabbi Green has served on its Board of Directors, Education Committee and as the Co-Chair of the Education Committee in charge of Judaic programming. Rabbi Greene also served as a teacher and adviser to Camp Ramah in Palmer, Massachusetts.

Rabbi Green also served as the Jewish chaplain for students at Westfield State College in Westfield and Bay Path College in Longmeadow. He was also an active member of the Longmeadow Clergy Association as well as the Interfaith Council of Western Massachusetts.

Mr. Speaker, I ask all my colleagues in the House of Representatives to join me now in congratulating Rabbi Gary Greene and the Marathon Jewish Center for their service to the community. I am confident that the Marathon Jewish Center will continue to enrich the lives of its congregants for many years to come.

TRIBUTE TO MS. MARGARET ANN ABDALLA

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. SCHIFF. Mr. Speaker, I rise today to honor an outstanding citizen of California's 29th Congressional District, Margaret Ann Abdalla. Ms. Abdalla has served on the South Pasadena Unified School District Board of Education for 16 years and has been a positive force in the greater South Pasadena area for much longer.

A Southern California native and University of Southern California graduate, Margaret Ann moved to South Pasadena in 1969. She began her community service by volunteering with the South Pasadena Parent Teacher Association, Little League, and South Pasadena Educational Foundation. Ms. Abdalla also raised three children, Lisa, Tony and Alex, all who attended South Pasadena's public schools.

In 1987, Margaret Ann was elected to the South Pasadena Unified School District Board of Education. Ms. Abdalla has worked with several board members and four superintendents during her tenure, serving as Board President three times. Under her leadership, some of the Board's accomplishments include the passage of two school bond measures in 1995 and 2002, the formation and bonding of today's administrative team, and the transition of the junior high to a middle school program 12 years ago. In 1996, Margaret Ann was the recipient of the South Pasadena Parent Teacher Association's Honorary Service Award for meritorious service.

As a member of the South Pasadena School Board, Margaret Ann participated in organizations such as the California School Boards Association, the Downtown Revitalization Task Force and the Los Angeles Annenberg Metropolitan Project. In addition, Ms. Abdalla was a founding member of the Five-Star Coalition, a coalition of the Burbank, Glendale, La Canada Flintridge, Pasadena and South Pasadena School Districts, established for the purpose of collaborating with local legislators on issues of mutual interest to the school districts.

The time, energy and love Margaret Ann has given to the community are extraordinary, and the residents of South Pasadena have benefited greatly. At this time, I ask all Members to join with me in commending Margaret Ann Abdalla for her many years of dedicated service to the South Pasadena community.

ON THE PASSING OF WAYNE T. PALMER

HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. DAVIS of Tennessee. Mr. Speaker, I rise today to pay tribute to one of the 4th Congressional District's finest citizens. On Saturday, November 29, 2003, Wayne T. Palmer, of Sparta, Tennessee, passed away at his home.

Wayne Palmer was not a master of business or of politics. Mr. Palmer was a man of meager means but overwhelmingly generous spirit. He was a man who cut a giant figure in his community through the devotion of his time and energy to the causes he loved.

Wayne Palmer served as a volunteer leader in the Boy Scouts of America for more than 35 years. During that long tenure, he served variously as Assistant Scoutmaster and Scoutmaster of Troop 175 in Sparta, as the camping chairman of both the Upper Cumberland and Black Fox Districts, and as a leader of the camping committee of the Middle Tennessee Council. Significantly, these are just a few of the roles he fulfilled during his many years of service to Scouting.

Mr. Palmer was honored for his guidance to young men and leadership in scouting repeatedly. He was awarded the Long Rifle Award for his leadership in both the districts he served. Mr. Palmer was honored with the Silver Beaver Award—the highest honor accorded adult leaders by the Middle Tennessee Council—for his service to the council. In addition, he was a Vigil Honor member of the Order of the Arrow—Scouting's Honor Society—and was repeatedly honored for his service to the Wa-HiNasa Lodge, including receipt of the Founders' Award and Josh Sain Memorial Award.

Mr. Speaker, if we're lucky, we encounter few people in life who have the kind of positive influence over the lives and maturation of young men that Wayne Palmer had. He was a man utterly devoid of self-interest and focused almost entirely on the education and improvement of the lives of those boys and young men who had the tremendous good fortune to be guided by his wisdom—be they Boy Scouts (his first and lifelong love), Little League baseball players or otherwise. It is rare—very rare indeed—to find a person who acts altruistically, who places the interests of others consistently ahead of his own, and who is truly selfless. Wayne Palmer was just such a person, and the lives of many Tennesseans are far richer for having known him.

Wayne Palmer was a great teacher and a great man. The lessons he taught were lessons for life. Of that, I have no doubt. Wayne Palmer taught as much or more by example, as he did through more common instruction. Mr. Palmer walked the talk. He never asked anyone to do anything he was not himself willing to do. He was, in the eyes of so many, the very embodiment of that pole star of principles, the Scout Oath and Law. Mr. Speaker, Wayne Palmer was for many Tennesseans the Great Scoutmaster of legend and myth.

White County and the Fourth Congressional District of Tennessee lost one of those rare bright lights on November 29 when Wayne T. Palmer passed from this mortal coil. Accordingly, I rise today to express my deepest sympathy to his wife, Jan, and his son, Garrett, on

their tremendous loss. We honor his memory here today so that they will know that we all share their loss. Wayne T. Palmer was a great Tennessean, a man devoted to his family and to the education of young people, and an exemplary American citizen.

Mr. Speaker, it is my privilege as a Member of the People's House to honor his lifetime of service to others.

PAYING TRIBUTE TO THE SWIFT FAMILY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. MCINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable family from my District. Dean and Pattie Swift of Jaroso, Colorado have done a great deal for the preservation of the environment. Recently, the Colorado Association of Conservation Districts named the Swifts as Conservation Farmers of the Year for the work they have done as owners of the Swift Seed Company. I am honored to call the attention of this body of Congress to the contributions the Swifts have made to preserving the environment.

The Swifts began farming in the San Luis Valley in 1975. Their company sells flower seeds worldwide. The seeds the Swifts sell are used primarily for the reclamation of mining sites and the re-seeding of areas devastated by wildfire.

Dean Swift serves as the Chairman of the Rio Grande Corridor Advisory Committee. This committee is comprised of farmers and ranchers throughout Costilla County who are dedicated to the preservation of the Rio Grande on the Western border of Costilla County. In addition, Dean works in conjunction with Ducks Unlimited to promote wetland habitat on the Swift Farm.

Mr. Speaker, it is my honor to rise and pay tribute to Dean and Pattie Swift. The Swifts have done a great deal for the environment, not only on their family farm but also throughout our state. They have managed these feats while happily serving as wonderful parents to their two beautiful children. Congratulations Dean and Pattie on a well-deserved award.

RECOGNIZING KAZAKHSTAN'S ACCOMPLISHMENTS

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. RADANOVICH. Mr. Speaker, I would like to draw the attention of my colleagues to the efforts of Kazakhstan, a predominantly Muslim secular nation that spares no effort to promote better understanding and dialogue between the Western world and the Islamic world. Some people may wonder why Kazakhstan would engage in such efforts and why it is succeeding in their efforts. I suggest they read a recent article by the Ambassador of Kazakhstan, Kanat Saudabayev, published by the Institute on Religion and Public Policy so they may learn of Kazakhstan's experience in achieving these goals. I therefore ask unanimous consent of my colleagues to introduce the article into the CONGRESSIONAL RECORD.

[From *www.religionandpolicy.org*, Nov. 26, 2003]

WE CALL FOR DIALOGUE, NOT HATE

(By Ambassador Kanat Saudabayev)

Extremists often use religion to create hate and further their selfish agendas which have nothing to do with religion. But, all religions are similar in that they denounce terrorism and teach tolerance, harmony and brotherhood.

That was the message delivered to the world by participants of the Congress of Leaders of World and Traditional Religions, who gathered in Astana at the initiative of Nursultan Nazarbayev, the president of a secular Muslim-majority Kazakhstan. At the end of the Congress, senior clerics from Islam, Christianity, Buddhism, Judaism, Hinduism, Taoism and other faiths adopted a declaration stating, ''extremism, terrorism and other forms of violence in the name of religion have nothing to do with genuine understanding of religion, but are a threat to human life and hence should be rejected.''

''Inter-religious dialogue is one of the key means for social development and the promotion of the well-being of all peoples, fostering tolerance, mutual understanding and harmony among different cultures and religions,'' the religious leaders said after the closing joint prayer.

Far from the ''clash of civilizations'' many see as part of the world's future, this Congress was a strong response to all who spread intolerance, hate and terrorism. The Congress also showed the world the noble goals of inter-religious peace are very real and very achievable. There's convincing evidence of this in Kazakhstan, where Muslims, Christians, Jews, Buddhists and others live in peace with each other and where freedom of religion is the crucial value of our society. Pope John Paul 11 called Kazakhstan ''an example of harmony between men and women of different origins and beliefs.''

Indeed, at the whim of often cruel fate in the past, Kazakhstan, however paradoxically that may sound, has truly become a center of unique diversity and tolerance.

During much of the 20th century, Kazakhstan was under the totalitarian domination of Soviet communism. The Soviets conducted cruel experiments with our land and our people. The forced settlement of the traditionally nomadic Kazakh people was followed by a widespread famine in the 1930s. Coupled with almost 500 nuclear tests during 40 years, this led to deprivation, death and emigration of millions of ethnic Kazakhs. In the 1940s, Stalin dumped hundreds of thousands of Germans, Chechens, Koreans and others in Kazakhstan as his regime deemed them untrustworthy in the face of the invading Nazis in the West and the Japanese in the East. Thousands of ethnic Russians and others were sent to Soviet concentration camps, part of the Gulag, in Kazakhstan. Many Soviet Jews were exiled to Kazakhstan for their religious beliefs. In the 1950s, more than a million ethnic Russians, Ukrainians, Byelorussians came to Kazakhstan to farm under the Virgin Lands program.

In those difficult years, the native Kazakhs gave all these people shelter and shared bread. Official Communist ideology, however, did not encourage people in their natural yearning for a religious life. Religious life was instead suppressed; ancient mosques, churches, and synagogues were used as shops, storage areas or even discos, rather than houses of worship.

Religious reawakening and freedom of conscience returned to Kazakhstan only after our independence. During the short 12 years, ancient mosques, churches and synagogues were restored and hundreds of new ones built across the country. In 2002, Rep. Robert Wexler (D–FL) put a cornerstone into the new synagogue currently under construction in Astana. Today, there are some 3,000 religious congregations representing more than 40 religious denominations serving the needs of 100 different ethnic groups. Recently, President Nazarbayev announced plans to build a single center in Astana which will have houses of worship of many religions.

This history of mutual respect and harmony is the background which led President Nursultan Nazarbayev of Kazakhstan to convene the recent Astana Congress. The eager response of world's religious leaders to the call for the Congress is a reflection of the respect they carry for the President and his policies.

This is also the reason why many leaders from the United States and other countries have supported our endeavors to build bridges between religions and civilizations.

President George W. Bush, in his letter to President Nazarbayev, said, ''For the United States, itself a multi-ethnic and religiously diverse nation, these meetings underscore the importance of working with our friends in Central Asia to advance the values of tolerance and respect that form the foundation of democracy.''

A bipartisan group of U.S. Senators and Congressmen in a letter to President Nazarbayev called the Astana forum ''Kazakhstan's worthy contribution to the promotion of peace and harmony during these difficult times.'' Senators Sam Brownback (R–KS) and Conrad Burns (R–MT), representatives George Radanovich (R–CA), Joe Pitts (R–PA), Robert Wexler (D–FL), Eni Faleomavaega (D–American Samoa), Edolphus Towns (D–NY) and others also thanked Kazakhstan ''for taking consistent and concrete steps to bridge the growing divide between Muslims and Jews at a time when tension in the Middle East is at a fulcrum, and intolerance and anti-Semitism are rising worldwide.''

The recent report to Congress by the Advisory Group on Public Diplomacy for the Arab and Muslim worlds, led by Edward Djerejian, points out the need for dialogue between the Muslim and Western worlds is more important today than ever before.

Such a conclusion is obvious. Similarly obvious are difficulties in putting it into practice.

But the example of Kazakhstan, working well with the United States, the West, and the Muslim world and speaking for dialogue of religions and civilizations, gives us ground for optimism that tolerance and mutual understanding, not hate and violence, will prevail.

A BILL TO EXPAND THE WORK OPPORTUNITY TAX CREDIT

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. HOUGHTON. Mr. Speaker, today I am introducing a bill to add Trade Adjustment Assistance Recipients as a targeted group for the Work Opportunity Tax Credit, thereby permitting employers to receive a tax credit when hiring these individuals. Most importantly, this bill would help address the loss of our manufacturing and other jobs to foreign competitors. The bill I'm introducing is a companion to a bill offered in the Senate by my good friend, Senator OLYMPIA SNOWE of Maine.

The Work Opportunity Tax Credit (WOTC) program provides a credit of up to $2,400 based on wages paid in the first year to a new employee for employers that hire workers from one of the targeted groups (welfare recipients, ex-felons, high-risk youths, qualified food stamp recipients, etc.). The WOTC program has been a major factor in moving the unemployed from the welfare rolls into the workforce, serving as a vital component of the welfare reform legislation.

The proposal in the bill is a very targeted approach. A Trade Adjustment Assistance (TAA) recipient is an individual who is unemployed and has been certified to receive benefits under the TAA program. TAA benefits include extended unemployment compensation and worker training.

The latter program provides benefits to individuals who have been laid off by an employer who has been disadvantaged by foreign imports or has shifted production, and jobs, to a country that has a free trade agreement with the United States or is a beneficiary country under certain other trade agreements. Thus, the proposal deals directly with the loss of jobs to countries abroad.

The TAA targeted group would be somewhat different than the other groups. The TAA group has been disadvantaged by foreign trade and competition. Even though the individuals may be skilled, they are unlikely to find jobs in their former industries because the jobs have moved offshore. Accordingly, the TAA recipient may need retraining. Qualifying as a WOTC/TAA recipient would help the person obtain a job, and the credit would contribute to the retraining costs incurred by the new employer. The TAA recipient hired by an employer would no longer receive TAA benefits, thus reducing the cost of that program.

The proposal is not the complete answer to unemployment. Nevertheless, I believe it is a step in the right direction, because it targets those workers who have lost their jobs due to foreign trade and competition. I encourage my colleagues to cosponsor this proposed legislation.

PAYING TRIBUTE TO ANN CAMERON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to an extraordinary woman from Glenwood Springs, Colorado. Ann Cameron is a wonderful person who brings warmth to the hearts of everyone she meets with her gentle laugh and remarkable sense of humor. Her enthusiasm spreads throughout the community as she passes her wisdom and knowledge on to future generations. I would like to join my colleagues here today in recognizing Ann's tremendous dedication to the Glenwood Springs community.

Ann celebrated her 101st birthday on November 12th. She was born in 1902 in the Indian Territory of Oklahoma before it became a state. As one of eight children, she grew up milking cows and picking cotton on the family farm before she went on to teacher's college. Ann became a stenographer and worked for attorneys most of her life. She credits reaching her second century with hard work and staying busy.

Mr. Speaker, Ann Cameron is a gracious individual who enriches the lives of many members of her Glenwood Springs community. Ann has demonstrated a love for humanity that resonates in her life-long work ethic and compassionate personality that has led her to the exceptional milestone she celebrates this year. Ann's enthusiasm and dedication certainly deserve the recognition of this body of Congress. Congratulations on your 101st birthday Ann. May you have many more to come!

ARMENIAN TECHNOLOGY GROUP AND CENTRAL DIAGNOSTIC LABORATORY IN ARMENIA

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. RADANOVICH. Mr. Speaker, I wish to take this opportunity to clarify a key provision in Fiscal Year 2004 Foreign Operations Appropriations which was included in the Consolidated Appropriations Act of 2004.

As you know, this Congress continues to be a supporter of strong U.S.-Armenian relations to include economic and related programs. In fact, this bill appropriates $75 million to help Armenia with its continued progress toward a market-oriented democratic nation.

However, it is not just economic assistance that Congress is voting on today. We are also voting on a provision which expressed the intent of Congress that the U.S. Agency for International Development provides sufficient funding to establish and operate a Central Diagnostic Laboratory in Armenia that can serve the Caucasus region. Currently, there is no such resource in Armenia or the region to safeguard human health and food safety against the threat of contamination or spread of disease.

I believe it is the intent of this Congress that the U.S. Agency for International Development utilize the services of the Armenian Technology Group, a U.S.-based nonprofit organization, to work with Armenian officials to establish and begin operations of this Central Diagnostic Laboratory. Furthermore, I believe it is key that this work begin as early as possible so that the Caucasus region, and by extension the United States, can benefit from the protection provided by this Central Diagnostic Laboratory.

HONORING THE LEGACY OF CONGRESSMAN DANIEL J. FLOOD

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the late Congressman Dan Flood as his legacy is honored today, November 25, 2003, at King's College in Wilkes-Barre. The occasion will celebrate the Congressman's 100th Birthday, 10 years after his passing.

Although it has been over 2 decades since he has served in the House of Representatives, Congressman Dan Flood's record of accomplishments and the legacy he left are still alive and well. Congressman Flood and I worked on several legislative initiatives together. Spearheading the effort to shape the recovery package for Northeastern Pennsylvania following the floods left in the aftermath of Hurricane Agnes stands out as an example of Congressman Flood's responsiveness to the district he loved.

Mr. Speaker, I insert in my remarks at this point the complete text of a story printed in the Wilkes-Barre Citizens Voice on the legacy of Dan Flood.

LEGENDARY LEGACY

It has been 23 years since he left Washington and nine years since his death in 1994.

Congressman Daniel J. Flood became a legend in his own time while in office, and remained a much-respected popular figure for 14 years after.

The fact that old friends, public officials, and news media will gather at King's College on Tuesday to observe his 100th birthday is yet another indication of just how much his long life of service to the country and his region meant.

Much of the Flood years by way of public papers and memorabilia are housed at King's College, through an agreement Flood set up in 1964 with Mary Barrett, longtime college librarian.

In the Flood collection room are tens of thousands of pieces of correspondence, hundreds of photographs, awards, plaques, and seals of the office he held and the departments of government with which he dealt for so many years.

It is traditional in assessing the Congressman's career that consideration comes on two levels—the federal government in Washington and the 11th Congressional District in Northeastern Pennsylvania.

Until 1966, he represented Luzeme County. But after the Supreme Court's famous ''one man, one-vote'' decision, the state's congressional districts were realigned.

Flood's territory expanded to include Carbon and Columbia counties. In 1972, as part of the decennial reapportionment, Montour and Sullivan counties were added.

Flood's lasting legacy on the national scene usually centers on his three decades of policy to keep the Panama Canal in U.S. control, the unending crusade to promote the so called captive nations of eastern Europe which were under Soviet domination, and his powers as a member of the House Appropriations Committee.

Flood secured membership on the funding panel in 1949, and kept it throughout the end of his congressional service on January 31, 1980. His senior role on the Defense appropriations subcommittee, where he served for nearly 30 years, was significant in such areas as funding new weapons systems, supporting the Vietnam War and keeping the Tobyhanna Army Depot in business.

In fact, it was his strong relations with the most senior Department of Defense military and civilian commanders that enabled him to gain permanent legend status for his role in the recovery of the Agnes disaster in 1972. The effort was led from his emergency headquarters at the Naval Reserve Center in Avoca.

In 1966, after less than three years of service on the appropriations subcommittee for Labor, Health, Education and Welfare, election defeat for two colleagues and the unexpected death of the panel's chairman thrust Flood into the chairmanship of what quickly became an awesome assignment.

Flood handled it well—for the country and his district. President Lyndon B. Johnson

called for the creation of the Great Society, a program unprecedented in scope of social, educational, and vocational opportunities, in which several million Americans benefited. The assignment for funding policy for the entire program fell upon Chairman Flood and his subcommittee. During the 14 years of his chairmanship, the National Institute of Health budget increased six-fold, research for cancer intensified new federal programs for educational development sprung up, and many national health and research centers were created.

Also, for the first time, the government offered support for psychiatric training, practical nursing and specialized education.

It was his clout in the appropriations process that had much to do with his successful leadership in the enactment of the 1969 legislation which created the Black Lung program for first retired coal miners, and later secured benefits for their widows.

By the time of his retirement a decade later, his constituents alone received several hundred million dollars of benefits.

The powerful subcommittee assignment brought a multitude of benefits for the folks back home.

Funds were obtained to help construct the new library at King's College. The first family practice medicine program between Wilkes University and Hahnemann University in Philadelphia was inaugurated. Students could now take many of their medical school classes on the Wilkes University campus.

The first federally funded rural health center on Route 940 in White Haven opened, with others in the area soon to follow. The regional mental health center, headquartered in Nanticoke, was the first of its kind in the country. Marywood University's School of Social Work gained national recognition because of its network of services funded by Washington.

Beyond the realm of the Washington scene and significant projects for his district, it was another legend, that of individual constituent service, for which Flood perhaps became best known.

There was, it seemed, no aspect of human need in which the government could not play a part and that Flood did not deliver assistance.

Flood's long public career brought many types of recognition. There were 13 honorary degrees, the top national awards of the American Cancer Society, the American Heart Association, the Disabled American Veterans, the Cystic Fibrosis Foundation and hundred more.

The lasting tribute that the congressman treasured most, however, was the naming of Daniel J. Flood Elementary School in the north end of Wilkes-Barre in his honor. The school is located just a few blocks from the simple, family home where his devoted wife, Catherine, resides to this day.

The ceremony in Flood's honor will be held Tuesday at 1:30 p.m. in the King's College chapel at North Franklin and Jackson streets.

Mr. Speaker, Daniel Flood's wife, Catherine, who will be present at the ceremony today, was indeed a partner in the Congressman's career and family. His loyal staffers and allies such as Michael Clark, John McKeown and Councilman Jim McCarthy, serve as a tribute to how Dan Flood conducted himself as a Congressman.

My Colleagues, Congressman Flood serves as a model of responsiveness to the people he represented and I feel fortunate to have had the opportunity to work with him over the years. He is indeed a legend.

PAYING TRIBUTE TO KRIS JOHNS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable young man from my district. As Captain of a United States Coast Guard ship, Lieutenant Kris Johns has dedicated his life to the safety and security of our nation. I am honored today to call the attention of this body of Congress and our nation to Kris and his selfless and courageous service.

As a high school student, Kris set the lofty goal of becoming a ship Captain in the United States Coast Guard. Kris' teachers and friends knew that he was a special young man who would work tirelessly to make his dream a reality. Following high school, Kris attended the United States Coast Guard Academy. While there, he continued to excel and was admitted to officer training school.

Upon graduation from the Coast Guard Academy, Kris was assigned to the United States Coast Guard Cutter *Sherman,* where he began as a Communications Officer and was soon promoted to Gunnery Officer. Last June, Kris realized his dream, as he received orders to take command of the United States Coast Guard Cutter *Halibut* stationed in California.

Kris has served honorably aboard the *Halibut* and earned the respect of the men under his command. Kris and his crew spend each day undertaking missions for homeland security, search and rescue, and drug enforcement. Our nation is truly a safer place as the result of the service of Kris and his men.

Mr. Speaker, it is my honor to rise and pay tribute to Kris Johns. Kris spends his life protecting and serving all Americans. I am proud of Kris and his many accomplishments. Thank you Kris for your service.

TRIBUTE TO PRIVATE WILLIAM SCHAUB

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Private William Schaub, a World War I veteran from New York. His son lives in XXX.

This Veterans' Day, I will have the pleasure of recognizing Private Schaub for his heroism and bravery as a United States Soldier who fought in the First World War. He was sent to the battle fields in Europe and fought in the major battles of St. Mihiel, Meuse-Argonne, and Essey-Pannes.

There are few among us who can recall the horrors of this war to end all wars that scarred an entire generation. One of the deadly innovations that typified the battles fought by our soldiers was the use of poisons gas. Mustard, Sarin, and Chlorine Gas were used offensively to debilitate Allied Troops.

Often troops were not adequately supplied with gas masks to protect them from this poison. Indeed an improvised method was developed by our troops to protect those without masks. Taking advantage of naturally occurring ammonia, troops tied handkerchiefs over their face to destabilize the fumes.

Such method was employed by Private Schaub in a Mustard Gas attack on his division. He was treated for Bronchitis, gas exposure and sinus conditions and honorably discharged on April 15, 1919.

I will present Private Schaub's son with the Purple Heart, the oldest military decoration in the world, more than 80 years overdue.

Though he earned this honor, he never received it from the Defense Department and I am pleased to have the opportunity to present to his family the Purple Heart for his selfless devotion to duty and service to the United States.

TRIBUTE TO CHIEF LOUIS IMPARATO

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. PASCRELL. Mr. Speaker, I would like to call to your attention the life and work of an exceptional individual who I have long been proud to call my friend, Fire Chief Louis Imparato. On Tuesday, November 25, 2003, members of the City of Passaic (NJ) Fire Department joined together with the F.M.B.A. to celebrate Chief Imparato's retirement.

During his tenure as Fire Chief, Lou Imparato used his position of leadership to serve as a powerful voice for the fire services both at home and in Washington, DC. It is therefore only fitting that Chief Imparato be recognized in this, the permanent record of the greatest freely elected body on earth.

Over the past 35 years, Lou Imparato has tirelessly served the men, women, and children of the City of Passaic. Appointed to the fire department on January 8, 1968, Lou rapidly advanced up the chain of command until 1988, when he was named Deputy Chief. Three short years later, Lou became Passaic's Fire Chief—a position that he has held with distinction for the past twelve years.

Mr. Speaker, perhaps Chief Lou's greatest achievement and lasting legacy was his work in helping me to draft the Firefighter Investment and Response Enhancement (FIRE) Act.

Early in my career in Congress, Lou came to me at one of our many meetings addressing public safety needs and asked why the Federal government spent nearly zero dollars supporting our Nation's 32,000 career, volunteer, and combination fire departments. I did not have a good answer for him, so we began to investigate what could be done.

Together, we drafted the FIRE Act—the first ever comprehensive Federal commitment to local fire departments. I introduced the legislation in Congress and, after a massive lobbying effort from fire departments across the country, it passed the House and Senate and was signed into law by President Clinton in 2000, creating the Assistance to Firefighters Grant Program.

In its first 3 years of existence, the program has distributed over $1.2 billion directly to fire departments across the country from equipment, training, and other fire prevention activities. Chief Lou's own department in Passaic has already received close to $200,000 through the program.

The passage of the FIRE Act, which will help fire departments across the country better serve their communities for years to come, has been one of my greatest achievements while in Congress. I trust that Chief Imparato feels the same way about this piece of history-making legislation because we accomplished it together. Fire departments across the Nation will long owe Lou an immense debt of gratitude for his inspired work.

Committed to enhancing the work environment for firefighters throughout the State of New Jersey as well as on the national level, Lou served for 3 years as the President of the Local F.M.B.A., and for 10 years as the Local F.M.B.A. State Delegate. His great dedication and personal valor has been widely noted by the people he has served and by his peers—most notably when the New Jersey State F.M.B.A. honored him by asking him to serve as the Chairman of their Valor Awards Dinner.

As you can see, every aspect of Chief Imparato's life's work epitomizes the noble spirit of selfless service that we all strive to achieve. The sense of excellence and initiative that has driven Lou's life work has made him living proof that those who dedicate themselves to helping others are among the most valued and loved members of the community.

Mr. Speaker, the job of a United States Congressman involves so much that is rewarding, yet nothing compares to recognizing the efforts of public servants like Lou Imparato. I ask that you join our colleagues, the men and women of the City of Passaic, fire departments across the country, and me in recognizing the invaluable service of Chief Louis Imparato.

TRIBUTE TO THE SHILOH BAPTIST CHURCH AND THE REVEREND JAMES B. RODGERS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. MATSUI. Mr. Speaker, I rise in tribute to The Shiloh Baptist Church and The Reverend James B. Rodgers. On December 21, Reverend Rodgers will officially be installed as the twenty-seventh Pastor of the Shiloh Baptist Church, the oldest African-American church west of the Mississippi River and the first Baptist Church organized by African-Americans in Sacramento. I ask all my colleagues to join me in congratulating the Shiloh Baptist Church family and Dr. James B. Rodgers, Pastor, on this momentous occasion.

The Shiloh Baptist Church, located in the Fifth Congressional District of the State of California, was established in 1856 as the oldest African American Baptist Church West of the Mississippi River and the second oldest African American church in the City of Sacramento. Since the church had no facilities upon its establishment in which to hold religious services, it forged a strong relationship with the Chinese Americans in the area, which resulted in an offer being extended for Shiloh to hold religious services at the Chinese Chapel, located at historic Sixth and H Streets in Sacramento.

Shiloh has overcome many obstacles to its missionary services, including bank foreclosure in the 1860s; significant reductions in its membership because of relocations; destruction of the church facility by fire in 1861 and 1905; and the inability to secure building loans on several occasions. However, today Shiloh stands firm as a testament to the strong faith, perseverance, determination, character and courage of its founders and early congregations.

Since its establishment, Shiloh has provided dedicated service to the citizens of the Capital Region, much of which was accomplished during 26 plus years of outstanding leadership by Pastor Emeritus Willie P. Cooke. Shiloh has provided many services through its many ministries and has participated in numerous community based programs, including but not limited to, establishment of an Elderly Appreciation Day; the participation in the annual Sacramento Dr. Martin Luther King, Jr. Celebration; host church for the Sacramento Children Summer Food Program; organized a prison ministry for youth incarcerated in the California Youth Authority and the Sacramento County Probation Department; and instituted a Caregiver's Program to provide services to sick and residence-bound citizens.

In recognition and appreciation of these community services, Shiloh has received numerous Presidential, Congressional, Gubernatorial, and State Legislative commendations dating back more than 40 years.

For the past 18 months, Shiloh has continued its mission under the direction of Pastor Emeritus William P. Cooke. However, Shiloh recently called on Dr. Rodgers to serve as its 27th pastoral leader and to add to the rich religious and community history it has developed over the past 147 years.

The Reverend James B. Rodgers has served faithfully in the ministry, preaching and teaching the gospel for over 32 years. In preparation for his calling to the ministry and in continuation of his ministerial duties, Dr. Rodgers commenced his academic studies with the United States Naval Academy and has earned an Associate of Arts Degree in Business; a Bachelor of Arts in Theology; a Masters of Theology; a Doctorate of Theology; and a Masters in Education Administration.

Dr. Rodgers' official installation as pastor will occur during a three-day ceremony at Shiloh Baptist Church commencing with a community night on Friday, December 19, 2003, and concluding with the installation on Sunday, December 21, 2003. These services are designed to introduce Dr. Rodgers to the Shiloh family and to the Greater Sacramento community.

Mr. Speaker, I am honored to thank and congratulate the Shiloh Baptist Church for nearly 150 years of invaluable service to the City of Sacramento. I would like to especially welcome Dr. James B. Rodgers to our community and to the Shiloh Baptist Church. I ask all my colleagues to join me in wishing the Shiloh Baptist Church and Dr. Rodgers continued success in all their future endeavors.

PAYING TRIBUTE TO TABETHA SALSBURY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to a remarkable young lady from my district. Tabetha Salsbury is a fifteen-year-old resident of Pueblo, Colorado who spent last summer restoring a 1935 John Deere tractor. Tabetha did a wonderful job that resulted in a finely renovated machine. Recently, Tabetha's hard work paid off when she became a national champion in tractor restoration. I am proud to recognize her accomplishments here before my colleagues today.

All summer, Tabetha worked tirelessly disassembling, fixing and reassembling the tractor. When she had finished, Tabetha and her family took the time to transport the newly refurbished tractor to its previous owner so that he could see his old machine in its newfound glory.

Through her talent and dedication in the garage, Tabetha has achieved a historic first. As national champion, Tabetha is the first female that has ever finished in the top three in the national competition. She has proven herself as capable as any young tractor mechanic in Colorado.

Mr. Speaker, it is my honor to rise and pay tribute to Tabetha Salsbury. She has proven what can be accomplished through hard work. Tabetha's tenacity and dedication set a fine example for young men and women throughout our nation and it is my honor to rise and congratulate her on a well-deserved award.

TRIBUTE TO STAFF SGT. JOHN FOLSOM

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Staff Sgt. John L. Folsom, a Korean War veteran from Lady Lake, Florida in my Fifth Congressional District.

On Sunday, November 2nd, I had the pleasure of recognizing Staff Sgt. Folsom for his heroism and bravery as a United States Soldier who fought in the Korean War from January 1951 to February 1954. He continued his service to the Nation for 10 years after the conclusion of the Korean War, retiring in November 1964, having achieved the rank of Staff Sergeant (E–6).

On February 5, 1953 Staff Sgt. Folsom was wounded in his right leg by a sniper attack as his unit was ''digging in'' at the top of a hill in Seoul.

I will present Staff Sgt. Folsom with the Purple Heart, the oldest military decoration in the world, 50 years overdue.

Though he earned this honor, he never received it from the Defense Department and I am honored to have the opportunity to present to him the Purple Heart for his selfless devotion to duty and service to the United States.

A PROCLAMATION HONORING JOSEPH BRUNO MANASSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. NEY. Mr. Speaker:

Whereas, Donald and Dilla Manasse are celebrating the birth of their son, Joseph Bruno Manasse; and

Whereas, Joseph Bruno was born on the Twenty-third Day of September, 2003 and weighed 3.3 kilograms; and

Whereas, the Manasse's have all occasion to celebrate with friends and family as they welcome Joseph Bruno into their family, and

Therefore, I join with Members of Congress and their staff in congratulating Mr. and Mrs. Manasse and wishing Joseph Bruno a very Happy Birthday.

CONGRATULATING MIDDLE SCHOOL EDUCATORS OF THE YEAR

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. CUNNINGHAM. Mr. Speaker, I rise today to recognize the educators honored by the California League of Middle Schools as ''Educators of the Year.'' It is an honor to acknowledge the contributions they have made in the effort to implement education reform in California's middle school curriculum.

The California League of Middle Schools (CLMS) Educator of the Year Award Program annually recognizes the achievements of 11 educators from regions throughout California. Awardees exemplify educators who are able to inspire and motivate diverse groups of students in their educational endeavors. I am proud to nominate these eleven distinguished recipients of this award along with the thousands of educators from the State of California for the tremendous and exemplary work they do everyday in the classroom.

CLMS honors those displaying outstanding understanding of their teenage students and who are supportive of upward middle school movement. They are committed to employ the principles of Caught in the Middle, Turning Points, and Taking Center Stage, and incorporate State Frameworks and Standards into their curriculum. These leaders are dedicated to motivating and inspiring students while utilizing innovative educational tools. As enthusiastic role models, these educators are proactive in the pursuit of improving Middle School education for students now and in the future.

I am pleased to honor the following Middle School Educators: Jane Karcher, from Washington Middle School, Raiford Henry, from Roosevelt Middle School, Gabriele Calvin-Shannon, from Madison Middle School, Jami Phillips, from Woodland Park Middle School, Teresa Allen, from San Marcos Middle School, Julie Doria, from Olive Peirce Middle School, Mehrak Selby, from Marston Middle School, Steve Rodriguez, from Montgomery Middle School, John Lazarcik, from Kennedy Middle School, Lawrie Kueneman, from Oak Crest Middle School and Dr. Larry Maw from the San Marcos Unified School District.

Mr. Speaker, it is my pleasure to recognize the Middle School Educators of the year today for the outstanding contributions they have made to the education system. I thank them for their service and wish them continued success in the future.

TRIBUTE TO RUSSELL STOVER CANDIES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to an outstanding business in my district. Russell Stover Candies in Montrose, Colorado recently celebrated its thirtieth anniversary. Russell Stover is dedicated to bringing smiles to Americans throughout the nation and it is my honor to call the attention of this body of Congress to their contributions.

Russell Stover first opened the doors to its Montrose factory in 1973. Since that time, the staff and management have managed to find a delicate balance between traditional handcraftsmanship and twenty-first century technology. The dedication and artistry that Russell Stover employees put into their work results in a product that is unparalleled.

Since its inception, Russell Stover has benefited the economy of Montrose. The 600 employees at the factory love their work and there is very little turnover. The length of tenure for the factory's employees is a testament to the loyalty the company has to its employees.

In addition to bringing joy to others through its production of candies, Russell Stover is also involved in the community. Each year, the factory dedicates time and resources to various non-profit organizations and charitable activities throughout the region.

Mr. Speaker, it is my honor to call the attention of my colleagues and our nation to Russell Stover Candies. The company has done a great deal for the betterment of the Montrose community. I would like to congratulate Russell Stover on thirty years of service in Montrose and wish them the best in the years to come.

TRIBUTE TO ROSE PELLGRIN

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Rose Pellgrin, a dedicated, loving mother in my Fifth Congressional District of Florida. At 91 years old, Rose continues to be a shining example of devotion and selflessness for mothers young and old.

In 1949 at the age of 40, Rose Pellgrin became a mother to a baby girl she named Marian. Unfortunately Marian was born with a mental disability and Rose was advised that she would not live very long. Her doctors even told her to have another child and to not worry about Marian.

Rose insisted that she would raise Marian and did just that. She raised Marian despite several obstacles. When her husband's affliction with cancer forced the family to move from her native New York to central Florida, Rose learned that there was no school in the area for mentally disabled children. She then had to drive Marian to a school at the Key Training Center, nearly an hour away.

When her husband's cancer finally took his life, Rose had to make the difficult decision to place Marian at the Key Training Center to live and return to teaching, retiring at the age of 82.

Years later a nephew of Rose's who had a fondness for Marian died and left his inheritance to the women. Rose took the inheritance and bought a house with it. The house, which will become a licensed group home, will be maintained by the Key Training Center as one of its own group homes. This made it possible for Marian, and two other disabled adults, to have a place to live.

Mr. Speaker, with this act Rose Pellgrin made an incredible donation to the Key Center and to her daughter. What's more amazing is that she views it as nothing special, but as what mothers do for their children.

I am honored to be her representative in Congress and want to take a moment before this body today to call attention to her sacrifice and devotion to her daughter. We should all be so lucky as to have a mother like Rose.

WARS OF CHOICE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. FRANK of Massachusetts. Mr. Speaker, one of the most important debates now being carried on in the United States has to do with the reasons for our war in Iraq. The administration and its defenders have argued that we had to go to war as a matter of self-defense. In varying combinations, the administration has argued that Iraq was deeply involved with al Qaeda and that the Iraqi war to a great extent was a logical next step after the war in Afghanistan, and also that Iraq possessed weapons of mass destruction that were ready to be used against us. In short, they argued that this was a war of necessity.

Many of us believe to the contrary that the linkage between Iraq and al Qaeda was slight, and that the weapons of mass destruction argument had been grossly exaggerated. Of course evidence since America's military victory have strengthened greatly the case of those of us who were skeptical on both counts.

But the debate continues to be an important one. I was therefore struck by the article in the November 23 Washington Post by Richard Haass. Mr. Haass who is now the President of the Council on Foreign Relations was a very high ranking national security official of the Bush administration from its early months in office until June of this year—after the major military activity in the war against Iraq. While he does not explicitly rebut the Bush administration's case for the war, his article is in fact a strong argument against it.

Talking of the distinction between wars of necessity—which is how the administration has characterized the war in Iraq—and wars of choice, in which countries use war as a means of policy, Mr. Haass, the Director of the State Department's policy planning team while the war was being planned and carried out, clearly asserts that Iraq was an example of the latter.

As he notes, ''the debate can and will go on as to whether attacking Iraq was a wise decision, but at its core it was a war of choice. We

did not have to go to war against Iraq, certainly not when we did. There were other options; to rely on other policy tools, to delay attacking, or both. Iraq was thus fundamentally different from World War II or Korea or even the Persian Gulf War, all of which qualify as wars of necessity.'' Mr. Speaker, the significance of this analysis from a man who occupied so high a post in the Bush administration is great, and because of that, I ask that Mr. Haass's very thoughtful article be printed here.

[From the Washington Post, Nov. 23, 2003]

WARS OF CHOICE

(By Richard N. Haass)

Any number of lessons can be learned from the handling of the aftermath of the war in Iraq, but none is more basic than this: Democracies, in particular American democracy, do not mix well with empire.

Empire is about control—the center over the periphery. Successful empire demands both an ability and a willingness to exert and maintain control. On occasion this requires an ability and a willingness to go to war, not just on behalf of vital national interests but on behalf of imperial concerns, which is another way of saying on behalf of lesser interests and preferences.

Iraq was such a war. The debate can and will go on as to whether attacking Iraq was a wise decision; but at its core it was a war of choice. We did not have to go to war against Iraq, certainly not when we did. There were other options: to rely on other policy tools, to delay attacking, or both.

Iraq was thus fundamentally different from World War II or Korea or even the Persian Gulf War, all of which qualify as wars of necessity. So, too, does the open-ended war against al Qaeda. What distinguishes wars of necessity is the requirement to respond to the use of military force by an aggressor and the fact that no option other than military force exists to reverse what has been done. In such circumstances, a consensus often materializes throughout the country that there is no alternative to fighting, a consensus that translates into a willingness to devote whatever it takes to prevail, regardless of the financial or human costs to ourselves.

Wars of choice, however, are fundamentally different. They are normally undertaken for reasons that do not involve obvious self-defense of the United States or an ally. Policy options other than military action exist; there is no domestic political consensus as to the correctness of the decision to use force. Vietnam was such a war, as was the war waged by the Clinton administration against Serbia over Kosovo.

Wars of choice vary in their cost and duration. Vietnam was long (lasting a decade and a half from the American perspective) and costly in terms of both blood (more than 58,000 lives) and treasure (hundreds of billions of dollars). By contrast, Kosovo took all of 78 days, claimed no American lives in combat and cost less than $3 billion.

What these experiences suggest is that the American people are prepared to wage wars of choice, so long as they prove to be relatively cheap and short. But the United States is not geared to sustain costly wars of choice.

We are seeing just this with Iraq. The American people are growing increasingly restless, and it is not hard to see why. We have been at war now in Iraq for some eight months. More than 400 Americans have lost their lives. Costs are in the range of $100 billion and mounting.

The Bush administration knows all this; hence the accelerated timetable to hand over increasing political responsibility for Iraq to Iraqis. Such a midcourse correction in U.S. policy reflects in part the political realities of Iraq, where enthusiasm for prolonged American occupation is understandably restrained; even more, though, the policy shift reflects political realities here at home. Domestic tolerance for costs—disrupted and lost lives above all—is not unlimited. As a result, the president is wise to reduce the scale of what we try to accomplish. Making Iraq ''good enough''—a functioning and fairly open society and economy if not quite a textbook model of democracy—is plenty ambitious.

None of this is meant to be an argument against all wars of choice. There may be good and sound reasons for going to war even if we do not have to, strictly speaking. Such reasons can range from protecting a defenseless population against ethnic cleansing or genocide to preventing the emergence of a threat that has the potential to cause damage on a large scale.

But wars of choice require special handling.

First, it is essential to line up domestic support. Congress and the American people need to be on board, not just in some formal legal way but also to the extent of being psychologically prepared for the possible costs. Better to warn of costs that never materialize than to be surprised by those that do.

Second, it is equally essential to line up international support. The United States needs partners: to facilitate the effort of fighting the war, to share the financial and human costs of war and its aftermath, to stand with us diplomatically should the going get tough. We possess the world's most powerful military and economy, but the United States is not immune from the consequences of being stretched too thin or going deeply into debt.

Third, no one should ever underestimate the potential costs of military action; no one should ever assume that a war of choice, or any war, will prove quick or easy. Here as elsewhere the great Prussian military theorist Carl von Clausewitz had it right: ''There is no human affair which stands so constantly and so generally in close connection with chance as war.''

PLEDGING CONTINUED UNITED STATES SUPPORT FOR GEORGIA'S SOVEREIGNTY, INDEPENDENCE, TERRITORIAL INTEGRITY, AND DEMOCRATIC AND ECONOMIC REFORMS

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. HASTINGS of Florida. Mr. Speaker, Georgian President Eduard Shevardnadze resigned on November 23, 2003. Mr. Shevardnadze's resignation caps a political career during which he has won my admiration, and that of freedom-loving people everywhere, for helping, as Soviet foreign minister under Mikhail Gorbachev, end the Cold War.

However, in spite of this remarkable accomplishment, during his 10 years as president, Georgians widely became disheartened with Mr. Shevardnadze for allowing corruption to infest the country, while most of its people fell into poverty and despair. These conditions fed the uprising against him, but it was triggered by the fraudulent parliamentary elections of November 2, 2003.

Opposition began daily protests that attracted thousands, demanding the elections be annulled or Mr. Shevardnadze's resignation, or both. Throughout nearly 3 weeks of protests, both sides remained mindful of Georgia's interest in peace and safety, and avoided provocations.

Mr. Speaker, his fall ended a political crisis astonishing for its speed and lack of violence in a blood-washed region. There was no blood. No killing.

Consequently, Mr. Speaker, this resolution congratulates both Eduard Shevardnadze and the leaders of the opposition, Nino Burdzhanadze, Mikhail Saakashvili, and Zurab Zhvaniva, for their courage and patriotism in dealing with the crisis bloodlessly.

Moreover, the resolution pledges support and help for the people of Georgia so as to consolidate the democratic process. Furthermore, it urges all political segments, as well as social sectors and institutions in Georgia, to strive, through dialogue, to achieve the national reconciliation for which both the Georgian people and the international community yearn.

Mr. Speaker, I strongly and wholeheartedly support Georgia's new leaders, while I also urge them to pursue stability, abide by their constitution and hold democratic elections.

And, I look forward to working with Interim President Nino Burdzhanadze in her effort to maintain the integrity of Georgia's democracy as she strives to ensure that this change in government follows the constitution.

I urge my colleagues to support this resolution.

PAYING TRIBUTE TO EARL VANTASSEL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. McINNIS. Mr. Speaker, I rise before you with a heavy heart to pay tribute to a remarkable man from my district. Earl VanTassel of Craig, Colorado passed away recently at the age of 85. Earl contributed a great deal to the Craig community, and it is my honor today to rise and pay tribute to his life before this body of Congress and our nation.

Earl was born in Craig in 1918. He attended Craig High School, where he graduated in 1937. In 1943, Earl married Florence Prather, his wife of sixty years. Earl and Florence raised four wonderful children together.

Earl was an excellent and knowledgeable rancher who used his expertise for the betterment of his community. He was a mentor and leader for 4–H participants, and in that capacity, he passed along his knowledge of livestock and ranching to young people throughout the region. Earl was also a dedicated volunteer at the Moffat County Fair, numerous livestock sales, and local rodeos. He delighted in helping with the Craig Sale Barn for many years. In addition, Earl was an active member of the Colorado Cattlemen's Association, the Young Farmers Association and the 4–H Foundation.

Earl's contributions to his community went well beyond ranching. As a member of Colorado's first Conservation Board, Earl worked tirelessly on behalf of the environment. In addition, Earl served over forty years as a member of Craig's Rural Fire Protection District

Board. He was also an active member of the Elks Club, and a volunteer with the Sheriff's Posse as well. Craig is definitely a better place as the result of Earl's many contributions.

Mr. Speaker, it is my honor to rise and pay tribute to Earl VanTassel. Earl spent a great deal of his life working for the betterment of his community and our State. Above all, Earl was a wonderful father, husband and a friend to many. My heart goes out to Earl's loved ones during this difficult time of bereavement.

TRIBUTE TO SGT. LaVON C. HOVE

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Sgt. LaVon C. Hove, a Korean war veteran from Brooksville, FL, in my fifth congressional district.

This Veterans Day, I will have the pleasure of recognizing Sgt. LaVon Hove for his heroism and bravery as a United States soldier who fought in the Korean war from January 16, 1951 to August 1952.

This conflict enlisted the services of 6.8 million American men and women between 1950 and 1955.

On January 16, 1951 in Chorwon, Korea, Sgt. Hove was wounded in both legs and feet by shell fragments from a nearby explosion.

I will soon present Sgt. Hove with the Purple Heart, the oldest military decoration in the world, 50 years overdue.

Though he earned this honor, he never received it from the Defense Department and I am honored to have the opportunity to present to him the Purple Heart for his selfless devotion to duty and service to the United States.

REMEMBERING W.E.B. DuBOIS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. RANGEL. Mr. Speaker, on the eve of the 1963 March on Washington, the life of one of the 20th century's most brilliant individuals came to an end. W.E.B. DuBois—scholar, Pan-Africanist, political leader, champion of the struggle against white supremacy in the United States—died in Ghana on August 27, 1963. This year marks the 40th anniversary of DuBois' death.

DuBois was born on February 23, 1868 in Great Barrington, Massachusetts. At that time Great Barrington had perhaps 25, but not more than 50, Black people out of a population of about 5,000.

While in high school DuBois showed a keen concern for the development of his race. At age fifteen he became the local correspondent for the New York Globe. While in this position he conceived it his duty to push his race forward by lectures and editorials reflecting the need for Black people to politicize themselves.

Upon graduating high school DuBois desired to attend Harvard. Although he lacked the financial resources, the aid of family and friends, along with a scholarship he received to Fisk College (now University), allowed him to head to Nashville, Tennessee to further his education.

In his three years at Fisk (1885–1888), DuBois' first trip to the south, his knowledge of the race problem manifested. After seeing discrimination in unimaginable ways, he developed a determination to expedite the emancipation of his people. As a result, he became a writer, editor, and a passionate orator. Simultaneously, he acquired a belligerent attitude toward the color bar.

After graduation from Fisk, DuBois entered Harvard through scholarships. He received his bachelor's degree in 1890 and immediately began working toward his master's and doctor's degrees. After studying at the University of Berlin for some time, DuBois obtained his doctor's degree from Harvard. Indeed, his doctoral thesis, The Suppression of the African Slave Trade in America, remains the authoritative work on that subject, and is the first volume in Harvard's Historical Series.

At the age of twenty-six, DuBois accepted a teaching job at Wilberforce in Ohio. After two years at Wilberforce, DuBois accepted a special fellowship at the University of Pennsylvania to conduct a research project in Philadelphia's seventh ward slums. This gave him the opportunity to study Blacks as a social system. The result of this endeavor was The Philadelphia Negro. This was the first time such a scientific approach to studying social phenomena was undertaken. Consequently, DuBois is known as the father of Social Science. After completing the study, DuBois accepted a position at Atlanta University to further his teachings in sociology.

Originally, DuBois believed that social science could provide the knowledge to solve the race problem. However, he gradually concluded that in a climate of violent racism, social change could only be accomplished through protest. In this view, he clashed with Booker T. Washington, the most influential black leader of the period. Washington preached a philosophy of accommodation, urging blacks to accept discrimination for the time being and elevate themselves through hard work and economic gain, thus winning the respect of whites. DuBois believed that Washington's strategy, rather than freeing the black man from oppression, would serve only to perpetuate it.

Two years later, in 1905, DuBois led the founding of the Niagara Movement; a small organization chiefly dedicated to attacking the platform of Booker T. Washington. The organization, which met annually until 1909, served as the ideological backbone and direct inspiration for the NAACP, founded in 1909. DuBois played a prominent part in the creation of the NAACP and became the association's director of research and editor of its magazine, The Crisis.

Indeed, DuBois' Black Nationalism had several forms. The most influential of which was his advocacy of Pan-Africanism; the belief that all people of African descent had common interests and should work together in the struggle for their freedom. As the editor of The Crisis, DuBois encouraged the development of Black literature and art. DuBois urged his readers and the world to see ''Beauty in Black.''

Due to disagreements with the organization, DuBois resigned from the editorship of The Crisis and the NAACP in 1934 and returned to Atlanta University. He would devote the next 10 years of his life to teaching and scholarship. He completed two major works after resuming his duties at Atlanta University. His book, Black Reconstruction, dealt with the socio-economic development of the nation after the Civil War and portrayed the contributions of the Black people to this period. Before, Blacks were always portrayed as disorganized and chaotic. His second book of this period, Dusk of Dawn, was completed in 1940 and expounded his concepts and views on both the African's and African American's quest for freedom.

In 1945, he served as an associate consultant to the American delegation at the founding conference of the United Nations in San Francisco. Here, he charged the world organization with planning to be dominated by imperialist nations and not intending to intervene on the behalf of colonized countries. He announced that the fifth Pan-African Congress would convene to determine what pressure to apply to the world powers. This all-star cast included Kwame Nkrumah, a dedicated revolutionary, father of Ghanaian independence, and first president of Ghana; George Padmore, an international revolutionary, often called the ''Father of African Emancipation,'' who later became Nkrumah's advisor on African Affairs; and Jomo Kenyatta, called the ''Burning Spear,'' reputed leader of the Mau Mau uprising, and first president of independent Kenya. The Congress elected DuBois International President and cast him the ''Father of Pan-Africanism.''

This same year he published Color and Democracy: Colonies and Peace, and in 1947 produced The World and Africa. DuBois's outspoken criticism of American foreign policy and his involvement with the 1948 presidential campaign of Progressive Party candidate Henry Wallace led to his dismissal from the NAACP in the fall of 1948.

During the 1950's DuBois's continuing work with the international peace movement and open expressions of sympathy for the USSR drew the attention of the United States government and further isolated DuBois from the civil rights mainstream. In 1951, at the height of the Cold War, he was indicted under the Foreign Agents Registration Act of 1938. Although he was acquitted of the charge, the Department of State refused to issue DuBois a passport in 1952, barring him from foreign travel until 1958. Once the passport ban was lifted, DuBois and his wife traveled extensively, visiting England, France, Belgium, Holland, China, the USSR, and much of the Eastern bloc. On May 1, 1959, he was awarded the Lenin Peace Prize in Moscow. In 1960, DuBois attended the inauguration of his friend Kwame Nkrumah as the first president of Ghana. The following year DuBois accepted Nkrumah's invitation to move there and work on the Encyclopedia Africana, a project that was never completed.

On August 27, 1963, on the eve of the March on Washington, DuBois died in Accra, Ghana at the age of 94. Historians consider DuBois one of the most influential African Americans before the Civil Rights Movement of the 1960's. Born only six years after emancipation, he was active well into his 90's. Throughout his long life, DuBois remained Black America's leading public intellectual. He was a spokesman for the Negro's rights at a time when few were listening. By the time he

died, he had written 17 books, edited four journals and played a leading role in reshaping black-white relations in America.

HONORING THE DOWNTOWN FORT SMITH SERTOMA CLUB'S 50TH ANNIVERSARY

HON. JOHN BOOZMAN

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. BOOZMAN. Mr. Speaker, I rise today to honor the Downtown Fort Smith Sertoma Club for their fifty years of service to the community of Fort Smith, Arkansas.

The Downtown Fort Smith Sertoma Club exists for the high and noble purpose of service to mankind by communications of thoughts, ideas and concepts to accelerate human progress in health, education, freedom and democracy.

The club, which is part of the international charity the Sertoma Foundation, provides a number of services to the community. Most notably, they aid the hearing-impaired acquire hearing related products for persons who otherwise could not afford them.

I appreciate what they have done for the people of Fort Smith. They truly are an example of what can be accomplished if we make sacrifices for the greater good of our communities.

Mr. Speaker, 50 years of dedicated service and support to local charitable organizations and the educational good of mankind is truly a glorious reason to celebrate. I ask my colleagues to join me today as we honor this wonderful organization and encourage them to continue their work on behalf of the community.

TRIBUTE TO MIKE ALSDORF

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to my friend Mike Alsdorf. Mike is retiring after 25 years of devoted service with the Glenwood Springs, Colorado Fire Department. I have personally witnessed Mike's selfless and courageous service on behalf of the citizens of my hometown and I am proud to call his contributions to the attention of this body of Congress and our nation.

As a firefighter and arson investigator, Mike's career has been defined by great ability and outstanding courage. Over a quarter century ago, Mike and I attended fireman training together. It was clear from the outset that Mike was a natural leader who would become an excellent fireman.

In the face of danger, Mike has an uncanny ability to assume control and quickly orchestrate the best approach to any emergency. As an arson investigator, Mike used his vast knowledge, and his strong conviction, to prevent additional fires and ensure that justice was done. I have great respect for Mike's ability as a fireman and investigator.

Mike served courageously in the face of some of the worst disasters ever to occur in the Mountain West. He fought bravely to protect his fellow citizens in the Rocky Mountain Gas Explosion, the fires on Storm King Mountain and the recent Coal Seam Fire of 2002. In addition to his work as a fireman, Mike continues to serve as a dedicated Red Cross Volunteer. In this capacity, Mike has worked to improve the Red Cross communications system, organized disaster assessment teams and provided victims of disasters with lodging, food, clothing and counseling.

Mr. Speaker, it is my honor to rise and pay tribute to Mike Alsdorf. The citizens of Glenwood Springs are certainly better off as the result of Mike's tireless dedication to their safety. Mike will be missed as a member of the Glenwood Springs Fire Department. However, he will now have more time to spend with his four children, his beautiful wife Lynn and his many friends throughout Glenwood Springs. Thanks Mike. I appreciate your friendship and your service to our town.

TRIBUTE TO KENNETH L. BRADSHAW, JR.

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor Kenneth Bradshaw, Jr., a Korean War veteran from Inverness, Florida in my Fifth Congressional District.

I had the pleasure of recognizing Private Bradshaw for his heroism and bravery as a soldier who fought in the Korean War from January 8, 1948 until April 30, 1952 when he received a permanent disability retirement as a private first class.

On February 6, 1951, Bradshaw's Company was engaged in a fierce battle with the Chinese Army in South Korea just below the 38th parallel. He was wounded in his right arm by a shot fired by an enemy soldier.

Bradshaw was treated at two different field hospitals before being evacuated to a hospital in Japan. Shrapnel was also discovered lodged in his back.

I recently presented Private Bradshaw with the Purple Heart, the oldest military decoration in the world, more than 50 years overdue.

Though he earned this distinction, he never received it from the Defense Department and I am honored to have the opportunity to present to him the Purple Heart for his selfless devotion to duty and service to the United States.

COMMENDING BARBARA REYNOLDS FOR HER YEARS OF SERVICE ON CAPITOL HILL

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. WELDON of Florida. Mr. Speaker, I come to the floor today to pay tribute to a long-time member of my staff who is retiring this December. Barbara Reynolds has worked for me as my scheduler and executive assistant since I was elected in 1994. Barbara's career on Capitol Hill preceded mine by 13 years. This experience, along with her talent and willingness to accommodate the busy schedule of a Congressman, was invaluable.

Before coming to work on the Hill, Barbara had been a stay-at-home mom, taking care of her two children. She had never really given much thought to getting involved in the political world, but in 1979, at the suggestion of her father-in-law, she handed a resume to a friend at the Republican Policy Committee and, in about a week, landed a job with then-Representative Carlos Moorehead from California. This, however, was not her only job at the time. Barbara often spent her weekends as a professional model—many say she looked just like Jackie Kennedy Onassis. Her modeling took her all over the world as well as provided her with many commercial advertising opportunities. As a result of this, some current House maintenance workers who were around at the time still refer to Barbara as ''Jackie'' when they see her in the halls.

In 1985 Barbara began working for then-Representative and eventual Presidential candidate Jack Kemp. In addition to working in his personal office she also worked on his campaign in New Hampshire.

After working with Jack Kemp, Barbara moved on to work for my Florida colleague, Representative CLIFF STEARNS in 1988. Barbara spent 6 years working for Representative STEARNS where she established her Florida roots.

In 1995 Barbara came to work for me and has worked in my Washington office since my first day in office. I am incredibly grateful for her loyalty to me and my staff. It will be nearly impossible to replace her uplifting spirit. Her presence in my office added a touch of class and style, which are sometimes hard to find in the world of politics.

I, along with her coworkers and others outside my office whose lives she has touched, will miss her presence on Capitol Hill. Barbara Reynolds's retirement is well earned. She plans to pursue her hobby of boating on the Chesapeake with her husband, Bob, as well as continue to be a loving mother and grandmother to her two grown children and to her grandchildren. We all wish her many blessings and much happiness in the years to come.

Thank you Barbara, for your service to my office, the people Florida, and the many others with whom you have worked on Capitol Hill.

2003 OHIO STATE CHAMPIONS

HON. STEVE CHABOT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. CHABOT. Mr. Speaker, on the blustery evening of November 29, 2003, the Elder High School football team won their second consecutive state championship—joining an elite group in Ohio high school football history. With their 31–7 victory over Lakewood St. Edward, the Elder Panthers, under the guidance of Coach Doug Ramsey, became just the fourth school ever to win back-to-back Division I championships.

While last year's championship run was epitomized by hard-fought, closely-contested victories, this year's Panther team dominated the playoffs. The dynamic leadership of quarterback Rob Florian and the sensational running of Bradley Glatthaar—including an Ohio

Division 1 championship game record 252 rushing yards—spearheaded the offense, while Elder's swarming defense held opposing teams to just seven points in four of the five playoff games. And, as always, thousands of Elder faithful traveled across the state braving the cold to support the Panthers throughout the playoffs.

The hard work and sacrifice of the young men at Elder have brought pride and honor to Price Hill and our entire community. Football fans throughout the Cincinnati area congratulate the Panthers on their back-to-back championships and share in their celebration.

Mr. Speaker, to appropriately honor these young men and coaches, I'd like to submit for the RECORD the roster of the 2003 Elder Panthers and a copy of their schedule and game results.

ELDER HIGH SCHOOL, 2003 OHIO HIGH SCHOOL STATE FOOTBALL CHAMPIONS, FINAL RECORD: 14–1

REGULAR SEASON

Game 1: August 21, 2003, Elder 33—Winton Woods 14
Game 2: August 30, 2003, Indianapolis Warren Central 45—Elder 20
Game 3: September 5, 2003, Elder 50—Western Hills 8
Game 4: September 12, 2003, Elder 17—Indianapolis Bishop Chatard 16
Game 5: September 19, 2003, Elder 42—La-Salle 7
Game 6: September 26, 2003, Elder 49—Covington Catholic 21
Game 7: October 3, 2003, Elder 21—Moeller 20
Game 8: October 10, 2003, Elder 28—St. Xavier 7
Game 9: October 17, 2003, Elder 21—Indianapolis Cathedral 7
Game 10: October 24, 2003, Elder 24—Oak Hills 21

PLAYOFFS

Round 1: November l, 2003, Elder 28—Anderson 7
Round 2: November 8, 2003, Elder 33—Clayton Northmont 7
Regional Championship: November 15, 2003, Elder 24—Colerain 23
State Semi-Final: November 22, 2003, Elder 31—Dublin Scioto 7
State Championship: November 29, 2003, Elder 31—Lakewood St. Edward 7

2003 ELDER PANTHERS VARSITY FOOTBALL ROSTER

HEAD COACH

Doug Ramsey.

ASSISTANT COACHES

Ken Lanzillotta; Ray Heidorn; Mike Kraemer; Craig James; Tim Schira; Matt Eisele; and Pat Good.

SENIORS

No. 34 Eric Andriacco; No. 54 Steve Baum; No. 58 Kenny Berling; No. 26 Ryan Brinck; No. 20 Michael Brown; No. 50 Dave Bullock; No. 68 Alec Burkhart; No. 23 Mark Byrne; No. 5 Charlie Coffaro; No. 71 Justin Crone; No. 29 Brett Currin; No. 12 Rob Florian; No. 84 Kurt Gindling; No. 11 Bradley Glatthaar; No. 99 Alex Harbin.

No. 97 Steve Haverkos; No. 70 Chris Heaton; No. 82 Nick Klaserner; No. 7 Dan Kraft; No. 48 Joe Lind; No. 47 Pat Lysaght; No. 53 Corey McKenna; No. 60 Mike Meese; No. 92 Tim Mercurio; No. 30 Drew Metz; No. 72 Mark Naltner; No. 28 Alex Niehaus; No. 21 Billy Phelan; No. 31 Seth Priestle.

No. 65 Nick Rellar; No. 2 Jake Richmond; No. 91 Tony Stegeman; No. 88 Ian Steidel; No. 9 Mike Stoecklin; No. 45 Tim Teague; No. 24 John Tiemeier; No. 90 Matt Umberg; No. 10 Jeff Vogel; No. 16 Eric Welch; No. 74 John Wellbrock; No. 87 Mike Windt; No. 75 Eric Wood; and No. 94 Mike Zielasko.

JUNIORS

No. 52 Steve Anevski; No. 6 Brian Bailey; No. 41 Guy Beck; No. 18 Matt Bengel; No. 57 Nick Berning; No. 38 Joe Broerman; No. 13 Craig Carey; No. 89 Kevin Crowley; No. 14 Andrew Curtis; No. 95 Andrew Dinkelacker; No. 76 Alex Duwel; No. 33 Tim Dwyer; No. 66 Phil Ernst; No. 37 Eric Harrison; No. 36 Alex Havlin; No. 78 Josh Hubert.

No. 39. D.J. Hueneman; No. 15 R.J. Jameson; No. 43 Reid Jordan; No. 96 Eric Kenkel; No. 44 Bradley Kenny; No. 51 Chris Koopman; No. 42 Nick Kuchey; No. 67 Mark Menninger; No. 69 John Meyer; No. 32 Robert Nusekabel; No. 22 Billy O'Conner; No. 8 Mike Priore; No. 17 Andrew Putz; No. 46 Zack Qunell; No. 77 Brandon Rainier.

No. 3 Jeremy Richmond; No. 93 Jake Rieth; No. 73 Scott Roth; No. 19 Parker Smith; No. 98 Jared Sommerkamp; No. 86 Louis Sprague; No. 27 Rickey Stautberg; No. 79 Ben Studt; No. 62 Joe Super; No. 1 Pat Van Oflen; No. 61 Kurt Weil; No. 25 J.T. Westerfield; No. 40 Ben Widolff; No. 4 Nick Williams; and No. 81 Ben Wittwer.

SOPHOMORES

No. 35 Adam Baum and No. 49 Gerald Walker.

MANAGERS

T.J. Weil and Andy Brunsman.

TRIBUTE TO CORPORAL SEBASTIAN DEGAETANO

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to honor CPL Sebastian Degaetano, a veteran of the second world war and a resident of Port Richey, Florida in my Fifth Congressional District.

I will soon have the pleasure of recognizing CPL. Sebastian Degaetano for his heroism and bravery as a U.S. soldier who fought in the European Theater from January 19, 1943 through March 28, 1946.

During the pivotal Battle of the Bulge, which turned the tide against the Germans and was the largest land battle of World War II, CPL Degaetano was hit in his leg by shrapnel.

I will present CPL Sebastian Degaetano with the Purple Heart, the oldest military decoration in the world, nearly 50 years overdue.

Though he earned this honor, he never received it from the Defense Department and I am honored to have the opportunity to present to him the Purple Heart for his selfless devotion to duty and service to the United States.

CONFERENCE REPORT ON H.R. 2622, FAIR AND ACCURATE CREDIT TRANSACTIONS ACT OF 2003

SPEECH OF

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 21, 2003

Mr. OXLEY. Mr. Speaker, I rise today to express my appreciation for the work Congress has done to pass H.R. 2622, the Fair and Accurate Credit Transactions Act of 2003. H.R. 2622 includes numerous consumer protection measures designed to combat the growing crime of identity theft and to improve the accuracy of the credit reporting system. This landmark legislation will also ensure the continued vibrancy of our national credit markets.

Given the complexity of H.R. 2622, it is both appropriate and important to submit for the record a section-by-section summary of the legislation in order to help provide an understanding of the legislation and its impact on the Fair Credit Reporting Act.

The legislation provides significant measures to help consumers, financial institutions and consumer reporting agencies prevent and mitigate identity theft. For example, the legislation establishes requirements for the placement of fraud alerts on consumer credit files, investigation of changes of address, truncation of credit card and debit card account numbers on receipts, and the manner in which information identified as having resulted from identity theft is blocked.

In addition, the legislation establishes requirements for verifying the accuracy of consumer information and preventing the reporting of consumer information that results from identity theft. Financial institutions must also take certain steps before establishing new loans and credit accounts for consumers who have fraud alerts on their credit files.

Lastly, the legislation includes provisions entitling consumers to obtain free credit reports and access to their credit scores. This provision will likely do more for financial literacy and consumer education than any legislation in decades.

I am submitting this section-by-section analysis on behalf of myself and the gentleman from Alabama (Mr. BACHUS), the Chairman of the Financial Institutions and Consumer Credit Subcommittee, who introduced H.R. 2622 and presided over a series of hearings over the past year that laid the groundwork for this landmark legislation.

SECTION BY SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title; table of contents

This section establishes the short title of the bill, the ''Fair and Accurate Credit Transactions Act of 2003'' (the FACT Act).

Section 2. Definitions

This section adds a number of definitions for use in provisions of the Act that are not amendments to the Fair Credit Reporting Act.

Section 3. Effective dates

This section specifies effective dates for the legislation. Several sections are given specific effective dates. For sections adding new provisions or standards where no effective date is provided, this section provides a general rule providing for the Federal Reserve Board (the Board) and the Federal Trade Commission (FTC) within 2 months to jointly determine the appropriate effective dates for the remaining provisions, not to exceed 10 months from making their determination.

TITLE I—IDENTITY THEFT PREVENTION AND CREDIT HISTORY RESTORATION

Subtitle A—Identity Theft Prevention

Section 111. Amendment to definitions

This section includes a number of definitions, including definitions for fraud alerts, identity theft reports, financial institutions, and nationwide specialty consumer reporting agency.

Section 112. Fraud alerts and active duty alerts

The section sets forth a uniform national consumer protection standard for the processing of credit and verification procedures where there is an elevated risk of identity theft. The section allows certain identity theft victims and active duty military consumers to direct nationwide consumer reporting agencies to include a fraud alert or active duty alert in each consumer report furnished on them that can be viewed by creditors and other users of the report in a clear and conspicuous manner. Upon receiving proof of the consumer's identity and the consumer's request for an alert, the agency must place the alert in the consumer's file for a certain time period (or such other time agreed to upon the request or subsequently) in a manner facilitating its clear and conspicuous viewing, inform the consumer of the right to request free credit reports within 12 months, provide the consumer with the disclosures required under section 609 within 3 business days of requesting the disclosures, and refer the necessary information related to the alert to the other nationwide credit reporting agencies. The request must be made directly by the consumer or by an individual acting on their behalf or as their representative. This limitation on the request is intended to allow a consumer's family or guardian to request an alert for the consumer where appropriate, while preventing credit repair clinics and similar businesses from making such requests. Resellers of credit reports must reconvey any alert they receive from a consumer reporting agency. Agencies other than those described in section 603(p) must communicate to the consumer how to contact the Commission and the appropriate agencies.

The national standard creates 3 types of alerts. A consumer with a good faith suspicion that he or she has been or is about to be a victim of identity theft or other fraud may request an initial alert. The initial alert must be placed in the consumer's file for 90 days and the consumer may request one free credit report within 12 months. If the consumer has an appropriate identity theft report (typically a police report) alleging that a transaction was the result of fraud by another person using the consumer's identity, then the consumer may alternatively request an extended alert. The agency must place the extended alert in the consumer's file for 7 years, inform the consumer of the right to 2 free credit reports within 12 months, exclude the consumer's name from lists used to make prescreened offers of credit or insurance for 5 years, and include in the file the consumer's telephone number (or another reasonable contact method designated by the consumer). An active duty member of the military may alternatively request an active duty alert, which does not imply the immediate threat of identity theft, but as a preventative measure, a nationwide consumer reporting agency must respond to such a request by placing an active duty alert in the member's file for one year and exclude the member from lists used to make prescreened offers of credit or insurance for 2 years.

Users of consumer reports that contain an alert cannot establish a new credit plan or provide certain other types of credit in the name of a consumer, issue additional cards at the request of a consumer on an existing credit account, or grant an increase in a credit limit requested by the consumer on an existing credit account, without utilizing reasonable policies and procedures to form a reasonable belief of the requester's identity. In the case of an initial or active duty alert, if the requester has specified a telephone number to be used for identity verification, then the user may contact the consumer using that number or must take other reasonable steps to verify the requester's identity and confirm that the request is not the result of identity theft. In the case of an extended alert, the user may not grant the request unless the consumer is contacted either in person (such as in a bank branch or retail store location), by telephone, or through any another reasonable method provided by the consumer, to confirm that the request is not the result of identity theft.

Section 113. Truncation of credit card and debit card account numbers

This section creates a uniform national standard requiring businesses that accept credit or debit cards to truncate the card account numbers (printing no more than the last 5 digits) and exclude card expiration dates on any electronically printed receipts. This requirement becomes effective 3 years after enactment for any cash registers in use on or before January 1, 2005 and 1 year after enactment for any register put into use after January 1, 2005. The requirement does not apply to transactions in which the sole means of recording the person's credit card or debit card number is by handwriting or by an imprint or copy of the card.

Section 114. Establishment of procedures for the identification of possible instances of identity theft

This section directs the Federal banking agencies, the National Credit Union Administration (NCUA), and FTC to jointly formulate various red flag guidelines to help financial institutions and creditors identify patterns, practices and specific forms of activity that indicate the possible existence of identity theft. These agencies also must prescribe regulations creating uniform national standards for the entities they supervise requiring the entities to establish and adhere to reasonable policies and procedures for implementing the guidelines. The policies and procedures established under this section are not to be inconsistent with the policies and procedures required by section 326 of the USA PATRIOT Act, particularly with respect to the identification of new and prospective customers. In issuing regulations and guidelines under this Act, the Federal agencies are expected to take into account the limited personnel and resources available to smaller institutions and craft such regulations and guidelines in a manner that does not unduly burden these smaller institutions.

The red flag regulations shall include requiring issuers of credit cards and debit cards who receive a consumer request for an additional or replacement card for an existing account within a short period of time after receiving notification of a change of address for the same account to follow reasonable policies and procedures to ensure that the additional or replacement card is not issued to an identity thief. Specifically, before issuing a new or replacement card the issuer must either notify the cardholder of the request at the cardholder's former address and provide a means of promptly reporting an incorrect address change; notify the cardholder of the request in a manner that the card issuer and the cardholder previously agreed to; or otherwise assess the validity of the cardholder's change of address in accordance with reasonable policies and procedures established by the card issuer pursuant to the ''red flag'' guidelines applicable to the card issuer.

The Federal banking agencies, the NCUA and the FTC also are directed to consider whether to include in the red flag guidelines instructions for institutions to follow when a transaction occurs on a credit or deposit account that has been inactive for more than 2 years in order to reduce the likelihood of identity theft.

Section 115. Authority to truncate social security numbers

This section allows consumers, upon providing appropriate proof of identity, to demand that a consumer reporting agency truncate the first 5 digits of the consumer's social security or other identification number on a consumer report that the consumer is requesting to receive pursuant to section 609(a) of the FCRA.

Subtitle B—Protection and Restoration of Identity Theft Victim Credit History

Section 151. Summary of rights of identity theft victims

This section requires the FTC, in consultation with the banking agencies and the NCUA, to prepare a model summary of the rights of consumers to help them remedy the effects of fraud or identity theft. Consumer reporting agencies must provide any consumer contacting them expressing the belief of identity theft victimization with a summary of rights containing the information in the FTC's model summary and the FTC's contact information for more details. The section also requires the FTC to develop and implement a media campaign to provide more information to the public on ways to prevent identity theft. It is important for the agencies to let consumers know that identity thieves target home computers because they contain a goldmine of personal financial information about individuals. In educating the public about how to avoid becoming a victim of identity theft, the FTC and the federal banking regulators should inform consumers about the risks associated with having an 'always on' Internet connection not secured by a firewall, not protecting against viruses or other malicious codes, using peer-to-peer file trading software that might expose diverse contents of their hard drives without their knowledge, or failing to use safe computing practices in general.

The section further includes a provision creating an obligation to make certain records of identity theft victims more available to those victims and law enforcement. This section requires businesses that enter into a commercial transaction for consideration with a person who allegedly has made unauthorized use of a victim's identification to provide a copy of the application and business transaction records evidencing the transaction under the businesses' control within 30 days of the victim's request. The records are to be provided directly to the victim or to a law enforcement agency authorized by the victim to receive the records. The business can require proof of the identity of the victim and proof of the claim of identity theft, including a police report and an affidavit of identity theft developed by the FTC or otherwise acceptable to the business. A business may decline to provide the records if in good faith it determines that this section does not require it to; it does not have a high degree of confidence it knows the true identity of the requester; the request is based on a relevant misrepresentation of fact; or the information is navigational data or similar information about a person's visit to a website or online service. The business is not required under this section to retain any records (the obligation only applies to applications and transaction records that the business already is retaining under its otherwise applicable record retention policy), nor is it required to provide records that do not exist or are not reasonably available (such as those that are not easily retrieved, in contrast to records such as periodic statements listing transactions made on a credit or deposit account that are easily

retrieved). Businesses are also not required to produce records not within their direct control.

Section 152. Blocking of information relating to identity theft

This section provides that a consumer reporting agency must block information identified as resulting from identity theft within 4 business days of receiving from the consumer appropriate proof of identity, a copy of an identity theft report, an identification of the fraudulent information, and confirmation that the transaction was not the consumer's. The agency must then promptly notify the furnishers of the information identified that the information may have resulted from identity theft, that an identity theft report has been filed, that a block on reporting the information has been requested, and the effective date of the block.

Section 153. Coordination of identity theft complaint investigations

This section directs nationwide consumer reporting agencies to develop and maintain procedures for referring consumer complaints of identity theft and requests for blocks or fraud alerts to the other nationwide agencies, and to provide the FTC with an annual summary of this information. That summary may be a brief description of the estimated number of calls received pertaining to identity theft, the number of fraud alerts requested, and other issues which may be relevant. The FTC, in consultation with the Federal banking agencies and the NCUA, is directed to develop model forms and model standards for identity theft victims to report fraud to creditors and consumer reporting agencies.

Section 154. Prevention of repollution of consumer reports

This section creates a national standard governing the duties of furnishers to block refurnishing information that is allegedly the result of identity theft. Specifically, companies that furnish information to a consumer reporting agency are required to establish reasonable procedures to block the refurnishing of the information if they have received a notification from the agency that the information furnished has been blocked because it resulted from identity theft. Similarly, if a consumer submits an identity theft report to a company furnishing information to a consumer reporting agency and states that the information resulted from identity theft, the furnisher may not furnish the information to any consumer reporting agency, unless the furnisher subsequently knows or is informed by the consumer that the information is correct.

The section also restricts the sale or transfer of debt caused by identity theft. This provision applies to any entity collecting a debt after the date it is appropriately notified that the debt has resulted from an identity theft. The entity is then prohibited from selling, transferring, or placing for collection the debt that is identity theft-related. The prohibition does not apply to the repurchase of a debt where the assignee of the debt requires such repurchase because the debt results from identity theft; the securitization of debt (public or private) or the pledge of a portfolio of debt as collateral in connection with a borrowing; or the transfer of debt as a result of a merger, acquisition, purchase and assumption transaction or transfer of substantially all of the assets of an entity.

Section 155. Notice by debt collectors with respect to fraudulent information

This section requires third-party debt collectors who are notified that the debts they are attempting to collect may be the result of identity theft or other fraud to notify the third party on whose behalf they are collecting the debt that the information may be the result of identity theft or fraud. The debt collector must also then, upon the request of the consumer to whom the debt purportedly relates, provide the consumer with all the information that the consumer would be entitled to receive if the information were not the result of identity theft and the consumer were disputing the debt under applicable law.

Section 156. Statute of limitations

This section extends the statute of limitations for violations of the Fair Credit Reporting Act. The section requires claims to be brought within 2 years of the discovery of the violation (instead of the original standard of 2 years after the date on which the violation occurred), but with an outside restriction that all claims must be brought within 5 years of when the violation occurred.

Section 157. Study on the use of technology to combat identity theft

This section directs the Secretary of the Treasury, in consultation with the Federal banking agencies, the FTC, and other specified public and private sector entities, to conduct a study of the use of biometrics and other similar technologies to reduce the incidence of identity theft.

TITLE II—IMPROVEMENTS IN USE OF AND CONSUMER ACCESS TO CREDIT INFORMATION

Section 211. Free consumer reports

This section provides consumers with new rights to obtain an annual free consumer report from each of the nationwide credit bureaus (including the nationwide specialty consumer reporting agencies). With respect to agencies defined in 603(p), the free report only has to be provided if the consumer makes the request through the centralized source system established for such purpose. The centralized source shall be established in accordance with regulations prescribed by the FTC in a manner to ensure that the consumer may make a single request for the free reports using a standardized form for mail or Internet. With respect to the nationwide specialty consumer reporting agencies (as defined in 603(w)), the FTC may prescribe a streamlined process for consumers to request their free reports directly from that agency, which shall include, at minimum, the establishment of a toll-free telephone number by each agency, and shall take into account the costs and benefits to each agency of how requests may be fulfilled and the efficacy of staggering the availability of requests to reduce surges in demand.

The nationwide consumer reporting agencies must provide the report to the consumer within 15 days. Any disputes raised by a consumer who receives a free report under this section must be reinvestigated within 45 days after the consumer raises the dispute, which is a 15-day increase over the 30-day reinvestigation time frame that would otherwise apply. The new right to free reports shall not apply to any agency that has not been furnishing consumer reports to third parties on a continuing basis for the 12 months previous to a request. This exclusion is intended to allow credit bureaus that have just begun to fully operate on a nationwide basis (as defined in section 603(p) and (w)) a window of time to ramp up for at least 12 straight months before being subjected to the costs of complying with free requests under this section. The FTC is directed to prescribe regulations preventing consumer reporting agencies from avoiding being treated as an agency defined in section 603(p) by manipulating their corporate structure or consumer records in a manner that allows them to operate with essentially identical activities but for a technical difference.

In addition, the FTC is directed to prepare a model summary of the rights of consumers under the FCRA, including: the right to obtain a free consumer report annually and the method of doing so, the right to dispute information in the consumer's credit file, and the right to obtain a credit score and the method of doing so. The FTC is further directed to actively publicize the availability of the summary of rights, and make the summary available to consumers promptly upon request.

Section 212. Disclosure of credit scores

This section establishes a Federal standard governing the provision of credit scores to consumers. Consumer reporting agencies are required to make available to consumers upon request (for a reasonable fee that the FTC shall prescribe) the consumer's current or most recently calculated credit score, as well as the range of scores possible, the top 4 factors that negatively affected the score, the date the score was created, and the name of the company providing the underlying file or score. The disclosure of the top factors is intended to be consistent with the provisions of the Equal Credit Opportunity Act (ECOA) requiring a creditor making an adverse action to disclose the principal reasons in a credit score that most contributed to the adverse action. Credit scores are to be derived from models that are widely distributed in connection with mortgage loans or more general models that assist consumers in understanding credit scoring, and must include a disclosure to the consumer stating that the information and credit scoring model may be different than that used by a particular lender.

Credit scores do not include mortgage scores or automated underwriting systems that consider factors other than credit information, such as loan to value ratio. Consumer reporting agencies that do not distribute credit scores in connection with residential mortgage lending or develop scores in connection with assisting credit providers in understanding a consumer's general credit behavior and predicting the future credit behavior of the consumer are not required to develop or disclose any scores under this section. Consumer reporting agencies that distribute scores developed by others are not required to provide further explanation of them or to process related disputes, other than by providing the consumer with contact information regarding the person who developed the score or its methodology, unless the agency has further developed or modified the score itself. Consumer reporting agencies are not required to maintain credit scores in their files.

If a consumer applies for a mortgage loan, and the mortgage lender uses a credit score in connection with an application by the consumer for a closed end loan or establishment of an open end consumer loan secured by 1 to 4 units of residential real property, then the mortgage lender is required to provide the consumer with a free copy of the consumer's credit score. In addition, the lender must provide a copy of the information on the range of scores possible, the top 4 negative key factors used, the date the score was created, and the name of the company providing the underlying file or score, to the extent that the information is obtained from a consumer reporting agency or developed and used by the lender. A lender is not required to provide a proprietary credit score, but instead may provide a widely distributed credit score for the consumer together with the relevant explanatory information regarding the consumer's credit score. Beyond the information provided to the lender by a third party score provider, the lender is only required to provide a notice to the home loan applicant. This notice

includes the contact information of each agency providing the credit score used, and provides specific language to be disclosed to educate consumers about the use and meaning of their credit scores and how to ensure their accuracy.

A mortgage lender that uses an automated underwriting system to underwrite a loan or otherwise obtains a credit score from someone other than a consumer reporting agency may satisfy their obligation to provide the consumer with a credit score by disclosing a credit score and associated key factors supplied by a consumer reporting agency. However, if the lender uses a numerical credit score generated by an automated underwriting system used by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation or their affiliates, and the score is disclosed to the lender, then that score must be disclosed by the lender to the consumer.

Mortgage lenders are not required by this section to explain the credit score and the related copy of information provided to the consumer, to disclose any information other than the credit score or negative key factor, disclose any credit score or related information obtained by the lender after a loan has closed, provide more than 1 disclosure per loan transaction, or provide an additional score disclosure when another person has already made the disclosure to the consumer for that loan transaction.

The only obligation for a mortgage lender providing a credit score under this section is to provide a copy of the information used and received from the consumer reporting agency. A mortgage lender is not liable for the content of that information or the omission of any information in the report provided by the agency. This section and the requirement for mortgage lenders to provide credit scores do not apply to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation or their affiliates.

Any provision in a contract prohibiting the disclosure of credit scores by a person who makes or arranges loans or a consumer reporting agency is void, and a lender will not have liability under any contractual provision for disclosure of a credit score pursuant to this section.

This section also amends section 605 of the FCRA to provide that if a consumer reporting agency furnishes a consumer report that contains any credit score or other risk score or other predictor, the report must include a clear and conspicuous statement that the number of enquiries was a key factor (as defined in section 609(e)(2)(B)) that adversely affected a credit score or other risk score or predictor if that predictor was in fact one of the key factors that most adversely affected a credit score. This statement will be made in those instances in which the number of enquiries had an influence on the consumer's credit score, and it will thus alert a user of the consumer report when the number of enquiries has had an adverse effect on the consumer's credit score.

This section's technical and conforming amendments clarify the application of certain Federal standards. State laws are preempted with respect to any disclosures required to be made as a result of various provisions of the FACT Act, including the summary of rights to obtain and dispute information in consumer reports and to obtain credit scores, the summary of rights of identity theft victims, providing information to victims of identity theft, and providing credit score and mortgage score disclosures under this section, except for certain State laws governing credit score disclosures that are grandfathered. State laws that regulate the disclosure of credit-based insurance scores in an insurance activity are similarly not preempted by the requirements of those specific provisions. State laws governing the frequency of credit report disclosures are also preempted, except for certain specific grandfathered laws.

Section 213. Enhanced disclosure of the means available to opt out of prescreened lists

This section relates to the disclosure that has to be provided in connection with a prescreened offer of credit or insurance using a consumer's credit report. This section provides that the disclosure must include the address and toll-free number for the consumer to request exclusion from certain prescreened lists and must be presented in a format, type size, and manner that is simple and easy for reasonable consumers to understand. The FTC, in consultation with the Federal banking agencies and the NCUA, shall establish regulatory guidance concerning the format of the disclosure within one year of enactment. The length of time a consumer can request to be excluded from lists for prescreened solicitations is increased by this section from 2 years to 5 years. The FTC is directed to publicize on its website how consumers can opt-out of prescreened offers (including through the telephone number now required) and undertake additional measures to increase public awareness of this right. The Federal Reserve Board is directed to study and report to Congress on the ability of consumers to opt out of receiving unsolicited written offers of credit or insurance and the impact further restrictions on these offers would have on consumers.

Section 214. Affiliate sharing

This section adds a new Section 624 to the FCRA creating a uniform national standard for regulating the use and exchange of information by affiliated entities. While affiliates are allowed to share information without limitation, they may not use certain shared information to make certain marketing solicitations without the consumer receiving a notice and an option to opt-out of receiving those solicitations. Specifically, an entity that receives certain consumer report or experience information from an affiliate that would be a ''consumer report'' except for the FCRA's affiliate sharing exceptions may not use that information to make a marketing solicitation to the consumer about the products or services of that entity, unless it is clearly and conspicuously disclosed to the consumer that information shared among affiliates may be used for marketing purposes and the consumer is given an opportunity and simple method to opt out of those marketing solicitations. The notice must allow the consumer to prohibit those types of marketing solicitations based on that affiliate's information, but also may allow the consumer to choose from different options when opting out.

The opt-out notice may be provided to the consumer together with disclosures required by any other provision of law, such as the Gramm-Leach-Bliley Act or other information sharing notices required under FCRA. This provision (as well as a parallel coordination and consolidation provision in the rulemaking directions to the regulators) is intended to allow an entity to time its notice to a consumer (after the effective date of the regulations) in the next regularly scheduled mailing to that consumer of other legally required notices. This coordination and consolidation is intended to reduce consumer confusion and avoid duplicative notices and disclosures.

The consumer's election to opt out is effective for at least five years, beginning on the date the person receives the consumer's election, unless the consumer revokes the opt out or requests a different mutually agreeable period. After the expiration of the five-year period, the consumer must receive another notice and similar opt-out opportunity before the affiliate can send another covered marketing solicitation to the consumer.

There are a number of exceptions to the limitations on the use of affiliate information for marketing solicitations, where notice and opt out are not required. For example, the notice and opt-out do not apply to an entity using affiliate information to make a marketing solicitation to a consumer if the entity already has a pre-existing business relationship with that consumer. An entity that has a pre-existing business relationship with the consumer can send a marketing solicitation to that consumer on its own behalf or on behalf of another affiliate. For the purposes of determining a pre-existing business relationship, an entity and the entity's licensed agent (such as an insurance or securities agent or broker) are treated as a single entity, with the pre-existing business relationships of one imputed to the other.

A pre-existing business relationship exists between an entity and a consumer when, within the previous 18 months, the consumer has purchased, rented, or leased goods or services from the entity, or where some other continuing relationship exists between the consumer and the entity—for example where a financial transaction has been made with respect to the consumer, where the consumer has an active account (such as an unexpired credit card), or where the consumer has an in-force policy or contract. The term ''active account'' is intended to include any account where continuing legal obligations are in-force (such as a multi-year certificate of deposit) or for which a consumer regularly or periodically receives statements (even if there have been no recent transactions) such as a securities brokerage, bank, or variable annuity account. A pre-existing business relationship also exists when the consumer makes an inquiry or application regarding the entity's products or services during the three-month period immediately preceding the date on which the consumer is sent a solicitation. The financial functional regulators and the FTC are allowed to create further categories of pre-existing business relationships, which is in part intended to build upon the extensive recognition of customer relationships in existing regulations and guidance issued by the regulators under the Gramm-Leach-Bliley Act.

In addition to the pre-existing relationship exception, the notice and opt-out requirements do not apply to a person using information to facilitate communications with an individual for whose benefit the person provides employee benefit or other services pursuant to a contract with an employer related to and arising out of the current employment relationship of the individual participant or beneficiary of an employee benefit plan. The requirements also do not apply to the use of affiliate information to perform services on behalf of an affiliate, unless the affiliate could not send the solicitation itself because of a consumer opt out. Thus, an affiliate cannot act as a servicer for another affiliate and send out solicitations for its own products or services to a consumer who has opted out of receiving such solicitations. However, an entity can send a marketing solicitation on behalf of an affiliate that has a pre-existing business relationship with the consumer regarding the products or services of that affiliate or another affiliate. Furthermore, the notice and opt-out do not apply to a person using information in response to a communication initiated by the consumer, to a consumer request about a product or service, or to solicitations authorized or requested by the consumer. Additionally, the

notice and opt-out are not required where they would conflict with any provision of State insurance law related to unfair discrimination. This last exception is in part intended to enable insurers and agents to continue full compliance nationwide with State laws prohibiting insurers from discriminating against similar risks or placing similar risks in different rating programs, laws that provide for ''mutual exclusivity'', and ''best rate'' laws that may require insurers to provide customers with the best qualified rates from among their affiliated entities.

These provisions governing the exchange and use of information among affiliates do not apply to information used to make marketing solicitations if that information was shared into a common database or received by any individual affiliate before the effective date of the regulations implementing this section. Furthermore, the section makes clear that any State law that relates to the exchange and use of information to make a solicitation for marketing purposes is preempted.

The Federal banking agencies, the NCUA, the Securities and Exchange Commission (SEC), and the FTC are directed to prescribe regulations to implement this new section. To the extent that the section is applicable to insurers, it is intended that any enforcement of FCRA would continue to be performed by the State insurance departments. The Federal agencies also must jointly conduct regular studies of the information sharing practices of affiliates of financial institutions and other persons who are creditors or users of consumer reports to examine how that information is used to make credit underwriting decisions regarding consumers.

Finally, the section includes a technical and conforming amendment to Section 603(d)(2)(A) of the FCRA. This amendment is simply intended to integrate the new Section 624 into the FCRA and does not affect the definition of a ''consumer report.''

Section 215. Study of the effects of credit scores and credit-based insurance scores on availability and affordability of financial products.

Section 215 requires the FTC and the Board to study the use of credit scores and credit-based insurance scores on the availability and affordability of financial products.

Section 216. Disposal of consumer credit information

Section 216 directs the Federal banking agencies, the NCUA, the SEC and the FTC to issue regulations requiring the appropriate classes of persons that maintain or possess consumer information ''derived'' from credit reports to properly dispose of such records. The provision clarifies that it does not apply to other types of information (other than consumer report information) and does not impose an obligation to maintain or destroy any information that is not imposed under other laws. The provision does not alter or affect any such requirement, either.

TITLE III—ENHANCING THE ACCURACY OF CONSUMER REPORT INFORMATION

Section 311. Risk-based pricing notice

This section establishes a new notice requirement for creditors that use consumer report information in connection with a risk-based credit underwriting process for new credit customers. If a creditor grants credit to a new credit customer ''on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of [the creditor's other new] consumers'' based on information from a consumer report, the creditor must give the consumer a notice stating that the terms offered to the consumer are based on information from a consumer report. Nothing in the section, however, precludes a creditor from providing such a notice to all of its new credit customers, such as in a loan approval letter or other communication that the credit has been granted. Such a notice is not required, however, if the consumer applied for specific material terms and was granted those terms and those terms are not changed after the consumer responds to the credit offer. Also, such a notice is not required if the person has provided or will provide an adverse action notice pursuant to section 615(a) of the FCRA in connection with an application that is declined. In addition, the creditor is provided with flexibility in the timing of providing such notice, which can be given to the consumer at the time of application for credit or, at communication of loan approval, except where the regulations issued under this section specifically require otherwise.

The notice is intended to be a concise notice that includes: a statement that the terms offered are based on information from a consumer report; the name of a consumer reporting agency used by the creditor; a statement that the consumer may receive a free consumer report from that consumer reporting agency; and the consumer reporting agency's contact information for obtaining a free credit report. The creditor is not required to tell the consumer that it has taken or may take any unfavorable action, only that it used or will use credit reporting information in the underwriting process.

The FTC and FRB are directed to jointly prescribe rules to carry out this section. The rules are to address the form, content, time and manner of delivery of the notice; the meaning of the terms used in the section; exceptions to the notice requirement; and a model notice. The section provides creditors with a safe harbor if they maintain reasonable policies and procedures for compliance, and the section is only subject to administrative enforcement by the appropriate Federal agencies.

This section also adds a national uniformity provision prohibiting any State from imposing a requirement or prohibition relating to the duties of users of consumer reports to provide notice with respect to certain credit transactions.

Section 312. Procedures to enhance the accuracy and integrity of information furnished to consumer reporting agencies

This section directs the Federal banking agencies, the NCUA and the FTC, with respect to entities subject to their respective enforcement authority and in consultation and coordination with one another, to establish and maintain guidelines for use by furnishers to enhance the accuracy and integrity of the information they furnish to consumer reporting agencies. ''Accuracy and integrity'' was selected as the relevant standard, rather than ''accuracy and completeness'' as used in sections 313 and 319, to focus on the quality of the information furnished rather than the completeness of the information furnished. The agencies also are directed to prescribe regulations requiring furnishers to establish reasonable policies and procedures for implementing the new guidelines. In developing the guidelines, the agencies are instructed to: identify patterns, practices and specific forms of activity that can compromise the accuracy and integrity of the information furnished; review the methods used to furnish information; determine whether furnishers maintain and enforce policies to assure the accuracy and integrity of information furnished to consumer reporting agencies; and examine the policies and processes that furnishers employ to conduct investigations and correct inaccurate information.

In addition, this section modifies the standard in the FCRA regarding the duty of furnishers to provide accurate information. The FCRA prohibits furnishers from reporting information with knowledge that it is not accurate. The standard in section 623(a)(1) of the FCRA, ''knows or consciously avoids knowing that the information is inaccurate,'' is amended to ''knows or has reasonable cause to believe that the information is inaccurate.'' This section defines the new standard, ''knows or has reasonable cause to believe that the information is inaccurate,'' to mean ''having specific knowledge, other than solely allegations by the consumer, that would cause a reasonable person to have substantial doubts about the accuracy of the information.''

This section also enables a consumer to dispute the accuracy of the information furnished to a nationwide consumer reporting agency directly with a furnisher under certain circumstances. Specifically, the Federal banking agencies, the NCUA and the FTC are required to jointly prescribe regulations that identify the circumstances under which a furnisher is required to reinvestigate a dispute concerning the accuracy of information contained in a consumer report, based on the consumer's request submitted directly to the furnisher, rather than through the consumer reporting agency. While the section authorizes a consumer to submit a dispute directly to a furnisher, it is not to be used by credit repair clinics to submit disputes on behalf of one or more consumers.

In developing the regulations required by this section, the regulators are directed to weigh the benefits to consumers against the costs on furnishers and the credit reporting system; the impact on the overall accuracy and integrity of consumer reports of requiring furnishers to reinvestigate disputes brought directly by consumers; whether direct contact by the consumer with the furnisher would likely result in the most expeditious resolution of any such dispute; and the potential impact on the credit reporting system if credit repair organizations are able to circumvent the prohibition on their submission of disputes on behalf of one or more consumers,

A consumer who seeks to dispute the accuracy of information directly with a furnisher must: provide a dispute notice directly to such person at the mailing address specified by the person; identify the specific information disputed; explain the basis for the dispute; and include all supporting documentation required by the furnisher to substantiate the basis of the dispute. Upon receipt of a consumer's notice of dispute, the furnisher has specified responsibilities. The furnisher must: conduct an investigation of the disputed information; review all relevant information provided by the consumer with the notice; and complete the investigation and report the results to the consumer before the expiration of the period under section 611(a)(1) ''within which a consumer reporting agency would be required to complete its action if the consumer had elected to dispute the information under that section.'' Accordingly, for example, where the agency would have 30 days to complete the investigation of disputes regarding a consumer report obtained by the consumer following receipt of an adverse action notice, the furnisher would have 30 days as well. Similarly, where the consumer reporting agency has 45 days to complete a reinvestigation of a consumer dispute because the consumer has requested a consumer report through the centralized system under section 612, a furnisher also would have the 45 days to complete an investigation if the consumer has requested a consumer report through the centralized system and then disputed information on that consumer report directly with the furnisher. In

addition, if the investigation finds that the information reported was inaccurate, the furnisher must promptly notify each consumer reporting agency to which information was furnished and provide the agency with any correction necessary to make the information accurate.

The furnisher requirements do not apply if the person receiving a notice of a dispute directly from a consumer reasonably determines that the dispute is frivolous or irrelevant. Upon making such a determination, the person must notify the consumer of this determination within five business days after making the determination, by mail, or if authorized by the consumer for that purpose, by any other means available to the person. The notice provided to the consumer must include the reasons for the determination, and identification of any information required to investigate the disputed information, which may consist of a standardized form describing the general nature of the information.

This section also amends section 623(a)(5) of the FCRA to provide that a person that furnishes information to a consumer reporting agency regarding a delinquent account may rely upon the date provided by the entity to whom the account was owed at the time that the delinquency occurred, so long as a consumer has not disputed such information.

Section 623 of the FCRA also is amended to clarify liability and enforcement under the FCRA. Specifically, the new requirements imposed upon furnishers of information are subject to administrative enforcement, not private rights of action. Section 623 is amended by providing that ''Except as provided in section 621(c)(1)(B), sections 616 and 617 do not apply to any violation of'' the furnisher responsibilities under section 623(a), the accuracy guidelines and regulations under section 623(e) and the red flag guidelines and regulations and the requirements dealing with the prohibition of the sale or transfer of a debt caused by identity theft under sections 615(e) or (f) respectively. As a result, the various sections cited in section 312(e) will be subject to the administrative enforcement mechanisms provided under the FCRA, and such mechanisms represent the exclusive remedy for violations of such sections. A similar rule applies to any other section of the legislation that limits enforcement remedies to those administrative remedies set forth under the FCRA, including section 151, which adds a new section 609(e) relating to assistance to identity theft victims.

Section 313. FTC and consumer reporting agency action concerning complaints

This section directs the FTC to compile a record of complaints against nationwide consumer reporting agencies. If a complaint is received by the FTC about the accuracy or completeness of information maintained by a consumer reporting agency, the FTC must transmit the complaint to the consumer reporting agency for response. Each nationwide consumer reporting agency under section 603(p) that receives a complaint from the FTC must: review the complaint to determine if the agency has met all legal obligations imposed under the FCRA; report to the FTC the determinations and actions taken by the agency with respect to the complaint; and maintain, for a reasonable time, records regarding the disposition of such complaint in a manner sufficient to demonstrate compliance with the FCRA.

In addition, the FTC and the Board are directed to study and report jointly on the performance of consumer reporting agencies and furnishers of credit reporting information in complying with the FCRA's procedures and time frames for the prompt investigation and correction of disputed information in a consumer's credit file.

Section 314. Improved disclosure of the results of reinvestigation

This section amends sections 611 and 623 of the FCRA to require consumer reporting agencies to promptly delete information from a consumer's file, or modify that item of information as appropriate, if the information is found to be inaccurate, and to promptly notify the furnisher of that information that the information has been modified or deleted from the consumer's file. In addition, this section requires that furnishers, upon completion of a reinvestigation, if the information is found to be inaccurate or incomplete or cannot be verified, must, for purposes of subsequently reporting to a consumer reporting agency, modify the item of information, delete the information, or block the reporting of the information.

Section 315. Reconciling addresses

This section amends section 605 of the FCRA to require a nationwide consumer reporting agency under section 603(p), when it provides a consumer report, to inform the user requesting that report if the request received from the user includes an address for the consumer that substantially differs from the addresses in the file of the consumer. The Federal banking agencies, the NCUA and the FTC are directed to prescribe regulations regarding reasonable policies and procedures that users of consumer reports within the agencies' respective enforcement jurisdiction should employ when they receive notice of an address discrepancy. These regulations are to describe reasonable policies and procedures that a user may employ to form a reasonable belief that the user knows the identity of the person to whom the consumer report pertains and, if the user establishes a continuing relationship with the consumer, to furnish the consumer reporting agency with the appropriate address, as part of information that the user regularly furnishes for the period in which the relationship is established.

Section 316. Notice of dispute through reseller

This section amends section 611 of the FCRA to require consumer reporting agencies to reinvestigate consumer disputes forwarded to them by resellers of consumer reports. Furthermore, if a reseller receives notice from a consumer of a dispute concerning the accuracy or completeness of any item of information contained in a consumer report, the reseller must, within five business days and free of charge, determine the accuracy or completeness of the information in question and either correct or delete it, if it is the reseller's error, within 20 days after receiving the notice, or convey the notice of dispute with any relevant information to each consumer reporting agency that provided the information that is the subject of the dispute, if the error is not the reseller's. In the latter circumstance, the consumer reporting agency must report the results of its reinvestigation to the reseller that conveyed the notice, and the reseller must then reconvey the notice to the consumer immediately.

Section 317. Reasonable reinvestigation required

This section amends section 611 of the FCRA to provide that when a consumer disputes the accuracy of information contained in a consumer report, the consumer reporting agency that prepared the report must conduct a reasonable investigation free of charge to determine whether the disputed information is inaccurate.

Section 318. FTC study of issues relating to the Fair Credit Reporting Act

This section requires the FTC to study and report to Congress within one of the date of enactment of the FACT Act on ways to improve the operation of the FCRA. The FTC is directed to study and report on: the efficacy of increasing the number of points of identifying information that a credit reporting agency must match before releasing a consumer report; the extent to which requiring additional points of identifying information to match would enhance the accuracy of credit reports and combat the provision of incorrect consumer reports to users; the extent to which requiring an exact match of first and last name, social security number and address and ZIP Code of the consumer would enhance the likelihood of increasing the accuracy of credit reports; and the effects of allowing consumer reporting agencies to use partial matches of social security numbers and name recognition software. The FTC also must report on the impact of providing independent notification to consumers when negative information is included in their credit reports, and to consider the effects of requiring that consumers who experience adverse actions receive a copy of the same credit report used by the creditor in taking the adverse action. Finally, the FTC is to study and report on common financial transactions not generally reported to consumer reporting agencies that may bear on creditworthiness, and possible actions to encourage the reporting of such transactions within a voluntary system.

Section 319. FTC study of the accuracy of consumer reports

This section directs the FTC to conduct an ongoing study of the accuracy and completeness of information contained in consumer reports, and to submit interim reports and a final report to Congress on its findings and conclusions, together with recommendations for legislative and administrative action.

TITLE IV—LIMITING THE USE AND SHARING OF MEDICAL INFORMATION IN THE FINANCIAL SYSTEM

Section 411. Protection of medical information in the financial system

Section 411 amends section 604 of the FCRA to generally prohibit a consumer reporting agency from providing credit reports that contain medical information for employment purposes or in connection with a credit or insurance transaction (including annuities). Medical information may be included in a report as part of an insurance transaction only with the consumer's affirmative consent. Medical information may be included in a report for employment or credit purposes only where the information is relevant for purposes of processing or approving employment or credit requested by the consumer and the consumer has provided specific written consent, or if the information meets certain specific requirements and is restricted or reported using codes that do not identify or infer the specific provider or nature of the services, products, or devices to anyone other than the consumer.

In general, creditors are prohibited from obtaining or using medical information in connection with any determination of a consumer's eligibility for credit. Certain exceptions are provided where authorized by Federal law, for insurance activities (including annuities), and where determined to be necessary and appropriate by a regulation or order of the FTC or a financial regulator (including the State insurance authorities). Any person who receives medical information through any of the exceptions of this section is prohibited from further disclosure

of the information to any other person, except as necessary to carry out the purpose for which it was originally disclosed or as otherwise permitted by law. The Federal banking agencies and the NCUA are directed to prescribe regulations that are necessary and appropriate to protect legitimate business needs with respect to the use of medical information in the credit granting process, including allowing appropriate sharing for verifying certain transactions as well as for debt cancellation contracts, debt suspension agreements, and credit insurance that are generally not intended to be restricted by this provision.

This section further amends section 603(d) of the FCRA to restrict the disclosure among affiliates of consumer reports that are medical information except as provided in the exceptions above. Specifically, the exclusions from the term ''consumer report'' in section 603(d)(2) (e.g., sharing among affiliates of transaction and experience information) do not apply if the information is medical information, an individualized list or description based specifically on the payment transactions of the consumer for medical products and services, or an aggregate list of consumers identified based on their payment transactions for medical products or services. The section also creates a new definition for the term ''medical information'', defining it as information derived through a health care provider with respect to an individual consumer relating to the individual's past, present, or future physical, mental, or behavioral health, the provision of health care to the individual, or the payment for the provision of health care to the individual. The definition specifically excludes information that is age, gender, demographic information (including addresses), or other information unrelated to the individual consumer's physical, mental, or behavioral health.

Section 412. Confidentiality of medical contact information in consumer reports

Section 412 requires furnishers whose primary business is providing medical services, products, or devices to notify the consumer reporting agencies of their status as a medical information furnisher for purposes of compliance with the medical information coding requirements. Once an entity notifies a consumer reporting agency of its status as a medical information furnisher, the agency may not include in a consumer report the furnisher's name, address, or telephone number unless that contact information is encoded in a manner that does not identify or infer to anyone other than the consumer the specific company or the nature of the medical services, products, or devices provided. An exception is provided for consumer reports provided to insurance companies for insurance activities (including annuities) other than property and casualty insurance. The encoding requirement for medical information furnisher contact information applies regardless of the dollar amounts involved.

TITLE V—FINANCIAL LITERACY AND EDUCATION IMPROVEMENT

Section 511. Short title

This section establishes the short title of ''Financial Literacy and Education Improvement Act.''

Section 512. Definitions

This section defines the terms ''Chairperson'' and ''Commission'' for purposes of this title.

Section 513. Establishment of Financial Literacy and Education Commission

This section establishes the Financial Literacy and Education Commission with the Secretary of the Treasury as the Chairperson. The section sets forth the membership of the Commission to include federal agencies with significant financial literacy programs, and authorizes the President to designate up to five additional members. The Commission is required to meet at least once every four months and all such meetings shall be open to the public. The initial meeting shall take place not later than 60 days after the date of enactment of the FACT Act.

Section 514. Duties of the Commission

This section sets forth the duties of the Commission to, among other things, review financial literacy and education efforts throughout the federal government; to identify and eliminate duplicative federal financial literacy efforts; to coordinate the promotion of federal financial literacy efforts including outreach between federal, state and local governments, non-profit organizations and private enterprises; to increase awareness and improve development and distribution of multilingual financial literacy and education materials; to improve financial literacy and education through all other related skills, including personal finance and related economic education; to develop and implement within 18 months a national strategy to promote financial literacy and education among all Americans; and to issue a report, the Strategy for Assuring Financial Empowerment (''SAFE Strategy''), to Congress within the first 18 months of the Commission's first meeting and annually thereafter, on the progress of the Commission in carrying out this title. The Commission also shall establish a website and a toll-free number as a one-stop-shop for all federal financial literacy programs. The Commission's Chairperson is required to provide annual testimony to the relevant congressional committees.

Section 515. Powers of the Commission

This section authorizes the Commission to hold hearings and receive testimony as necessary to carry out the title; to receive information directly from any Federal department or agency; to undertake periodic studies regarding the state of financial literacy; and to take any action to develop and promote financial literacy and education materials in languages other than English, as the Commission deems appropriate.

Section 516. Commission personnel matters

This section provides that members of the Commission shall serve without compensation in addition to that received for their primary duties, however, the Commission may pay for travel expenses of members for official duties of the Commission. In addition, the Director of the Office of Financial Education of the Treasury Department shall provide assistance to the Commission. The section also permits federal employees to be detailed to the Commission.

Section 517. Studies by the Comptroller General

This section mandates that the General Accounting Office (GAO) submit a report to Congress not later than 3 years after the date of enactment of the FACT Act on the effectiveness of the Commission, and conduct a separate study to assess the extent of consumers' knowledge and awareness of credit reports, credit scores, and the dispute resolution process, and on methods for improving financial literacy. The GAO is required to report the findings and conclusions of this study to Congress within a year of the date of enactment.

Section 518. The national public service multimedia campaign to enhance the state of financial literacy

This section directs the Secretary of the Treasury, after review of the recommendations of the Financial Literacy and Education Commission, to develop, in consultation with nonprofit, public, or private organizations, a pilot national public service multimedia campaign to enhance the state of financial literacy and education in the U.S. The campaign is required to be consistent with the national strategy developed pursuant to section 514, and to promote the toll-free telephone and the website required by that section.

The Secretary shall develop measures to evaluate the performance of the public service campaign for each fiscal year for which there are appropriations, and shall submit a report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate and the Committee on Financial Services and the Committee on Appropriations of the House of Representatives, describing the status and implementation of the provisions of this section and the state of financial literacy and education in the United States. Appropriations of $3 million are authorized for fiscal years 2004, 2005, and 2006, for the development, production, and distribution of the pilot national public service multimedia campaign.

Section 519. Authorization of appropriations

This section authorizes appropriations to the Commission of such sums as may be necessary to carry out this title, including administrative expenses.

TITLE VI—PROTECTING EMPLOYEE MISCONDUCT INVESTIGATIONS

Section 611. Certain employee investigation communications excluded from definition of consumer report

This title amends section 603 of the FCRA to provide that communications to an employer by an outside third party retained to investigate suspected workplace misconduct or compliance with legal requirements or with the employer's preexisting written policies do not constitute a ''consumer report'' for purposes of the FCRA. This provision is intended to address the ill effects of certain regulatory guidance issued by the FTC staff in 1999 that had the unintended consequence of deterring employers from using outside firms to investigate alleged employee misconduct, including racial discrimination and sexual harassment claims. Employers that take an adverse action based on the communication by the outside investigative agency, however, continue to be required to disclose to the employee a summary of the nature and substance of the communication, although certain sources of information are protected from disclosure. In particular, the disclosure duty is not intended to require violation of any confidentiality obligations, such as confidentiality requirements regarding an individual's medical or other private information (social security number, home residence, etc.), or privileges, such as doctor-patient, attorney-client, or state secrets.

TITLE VII—RELATION TO STATE LAWS

Section 711. Relation to state laws

Section 711 eliminates the January 1, 2004 sunset of the uniform national consumer protection standards contained in current law and makes those preemptions permanent. It also clarifies that all of the new consumer protections added by the FACT Act are intended to be uniform national standards, by enumerating as additional preemptions the 11 new provisions of the FACT Act that do not contain specific preemptions in those sections. Specifically, the section establishes national uniform standards and preempts State law with respect to the truncation of credit card and debit card numbers (113), establishing fraud alerts (112), blocking information resulting from identity theft

(152), truncating social security numbers on consumer reports given to consumers (115), providing free annual disclosures (211) (in addition to the preemption for disclosures provided under section 212), any consumer protections addressed under the red flag guidelines (114), prohibiting the transfer of debt caused by identity theft (154), notice by debt collectors with respect to fraudulent information (155), coordination of identity theft complaints by consumer reporting agencies (153), duties of furnishers to prevent refurnishing of blocked information (154), and the disposal of consumer report information (216). Under this new preemption provision, no state or local jurisdiction may add to, alter, or affect the rules established by the statute or regulations thereunder in any of these areas. All of the statutory and regulatory provisions establishing rules and requirements governing the conduct of any person in these specified areas are governed solely by federal law and any State action that attempts to impose requirements or prohibitions in these areas would be preempted. This section also clarifies that with respect to any State laws for the prevention or mitigation of identity theft that address conduct other than those for which a national uniform standard is created under FCRA, those laws are not preempted to the extent they are not inconsistent with FCRA.

TITLE VIII—MISCELLANEOUS

Section 811. Clerical amendments

Section 811 makes a number of technical and clerical amendments.

HONORING THE MEMORY OF THE HON. DEVON WIGGINS

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. BONNER. Mr. Speaker, Escambia County, AL, and indeed the entire First Congressional District, recently lost a dear friend, and I rise today to honor him and pay tribute to his memory.

Judge Devon Wiggins was a devoted family man and dedicated public servant throughout his entire life. Following a lengthy tenure on the Escambia County Commission, twelve years of which he spent as the commission chairman, Judge Wiggins was elected to the position of Judge of Probate, a position he held until his retirement three years ago. Throughout his professional career, he was dedicated to bringing better opportunities to all the residents of Escambia County and was a tireless advocate for local business and industry. He also was dedicated to making himself and other county offices as accessible as possible to the general public and, through his efforts, garnered the respect and admiration of many individuals in both the public and private sectors.

As a small business owner in Brewton, Alabama, Judge Wiggins was extremely familiar with the challenges and goals of running a successful business and providing employment opportunities for hardworking men and women. It was this background and his tremendous work ethic which became hallmarks of his career in public office and which marked his efforts on behalf of all residents of Escambia County.

Judge Wiggins was also actively involved in his community, participating in church-related organizations and taking a leadership role in the activities of the Brewton Lions Club. His devotion to his fellow man was unmatched, and I do not think there will ever be a full accounting of the many people he helped over the course of his lifetime.

Mr. Speaker, I ask my colleagues to join me in remembering a dedicated public servant and long-time advocate for Escambia County, Alabama. Judge Wiggins will be deeply missed by his family—his wife, Nell Wiggins, his daughters, Dawn Wiggins Hare, Donna Wiggins Schlager, and Daphne Wiggins Martin, his son, Maxwell Devon Wiggins, and his six grandchildren—as well as the countless friends he leaves behind. Our thoughts and prayers are with them all at this difficult time.

TRIBUTE TO ROSS FISCHER

HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. BUYER. Mr. Speaker, one of the most rewarding aspects of representing Indiana's Fourth District is to have the opportunity to honor outstanding Hoosiers for his or her contributions to the community, State, and Nation.

For over fifty years, Ross Fischer has been the owner and President of McCord Auto Supply in Monticello, Indiana. McCord is the largest distributor of flotation tires in the world—a device of which Ross was instrumental in its design and development.

Ross Fischer was born in 1931 and grew up on a farm in Cissna Park, Illinois. He attended Possum Trot, a one-room schoolhouse.

He served in the United States Army, from 1952–1955 as the Squad Leader in the Alaskan Recoiless Rifle Regiment.

Throughout his over 40 years in Monticello, he has never forgotten his beginnings and it shows everyday in his treatment and compassion of others. Ross has made enormous contributions to the city, including providing free tire repairs to the community after a 1974 tornado. He is a member and supporter of the American Legion, the John Purdue Club, and the Monticello Jaycees and also sits on the Board of the White County Airport.

He and his wife Beverly are the parents of three daughters—Jo Anna, De Anna, Anna Lyn, as well as grandparents to seven grandchildren.

On the eve of his retirement from McCord, as well as his 49th wedding anniversary, I salute Ross Fischer for his dedication to family, community and the State of Indiana.

HONORING RANDY STRUCKOFF OF GRINNELL, KANSAS

HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. MORAN of Kansas. Mr. Speaker, I rise today to honor a devoted member of the Grinnell, Kansas community, Randy Struckoff.

Coach Randy, as he is affectionately called, has become one of the most well known sports fans in Northwest Kansas. At every game in the Grinnell high school gymnasium, Coach Randy always sits at the end of the score table, right next to the home team's bench. On December 19th, USD 291, the Grinnell Public School District, will honor Coach Randy by dedicating the high school's brand new score table to him.

A life-long resident of Grinnell, Coach Randy has touched the lives of all who have had the opportunity to know him. Although born with a mental handicap, he has never let that challenge get him down. Randy has a smile on his face year-round, and his bright spirit helps to carry Grinnell sports teams through hard times and add to their joy during the good times.

Coach Randy's love for his community, its schools, and its youth is visible to everyone around him. Whether he is helping to coach, officiate, lead cheers, or do all three at once, Coach Randy gives his heart and soul in supporting the coaches, students, and entire community. During the playing of the national anthem at any sporting event in Grinnell, Coach Randy stands at rapt attention, singing along with every word. He is present during every sports season, through summer league baseball and softball, football and volleyball in the fall, basketball in winter, and track in the spring.

I join Grinnell, Kansas in thanking Coach Randy for all of his encouragement and his dedication to the community.

HONORING THE LIFE OF BARBER B. CONABLE, JR.

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. REYNOLDS. Mr. Speaker, I rise before the House of Representatives today in remembrance of a great man who once served in Congress—former Representative Barber B. Conable, Jr. During his twenty years in Congress he represented both his constituents and this institution with grace and integrity. Regardless of where his service led him, Barber always remained true to his Western New York roots.

While he distinguished himself as a Member of Congress and earned the respect of colleagues on both sides of the aisle, Barber was also notable for his esteemed academic career, his professional knowledge on a wide variety of issues from taxes to Social Security, and his willingness to tackle any problem head on. Always lending a helping hand was a signature trait of Barber's; he never let partisanship get in the way of progress.

Barber Conable was the best example of what a public servant ought to be. He loved his country, his community and his family, never straying from the strong values he was raised on. His genuine sophistication as a legislator came so effortlessly, revealing the compassion and unselfishness that was a hallmark of his public service.

In devoting his life to serving others, Barber exemplified loyalty to his country as a veteran of both World War II and the Korean War. With a thirst for knowledge, Barber shared his experiences when he taught at the University of Rochester and later went on to become President of the World Bank. Though no matter what national or global stage he was on,

his commitment to the community never waned as he joined countless local boards and organizations over the years.

As a fellow Member of Congress, Barber was the model representative we should all aspire to. As a fellow Western New Yorker, I strive to serve the region with the same humility and regard Barber once did. The legacy of his warmth and generosity will live on in those who had the pleasure of knowing him. He will always be remembered as a true leader and a true friend. Like the many others fortunate to call Barber Conable a friend, I will miss him dearly.

IN SUPPORT OF THE AIR FORCE ACADEMY

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. BONILLA. Mr. Speaker, I ask to enter the editorial ''Aiming High: Academy Still Soars Above Rivals in Terms of Academics and Research Work,'' which appeared in the Colorado Springs Gazette on October 30, 2003, into the CONGRESSIONAL RECORD.

AIMING HIGH: ACADEMY STILL SOARS ABOVE RIVALS IN TERMS OF ACADEMICS AND RESEARCH WORK

Wednesday in this space we dabbled in the negative, wrestling with some of the continuing fallout from the Air Force Academy sex scandal. Today we accentuate the positive, mindful, as we all should be, that the occasionally disheartening headlines we see concerning the academy hardly present a fair and balanced reflection of what remains one of the nation's premier military and academic institutions.

What brings this to mind is a document that landed on our desk this week, the school's ''Annual research Report,'' which will be distributed to the four-star and invited three-star generals attending next week's Corona Conference at the academy. While not something the academy is attempting to spoon-feed the media in an effort to polish its reputation,the report catalogs some truly impressive accomplishments out at the academy—in part a result of the leadership shown by the dean of faculty since 1998, Brig. Gen. David A. Wagie.

Wagie, as readers may be aware, last month was singled out for special criticism by the Fowler Commission, a congressionally appointed panel responsible for the latest regurgitation of the academy sex scandal. Its report suggested that Wagie hadn't been held accountable for problems that occurred during his tenure. And that's led to speculation that Wagie could be the next Air Force official invited to fall on his sword to assuage Washington witch hunters. But by at least one critical measure of performance—the school's academics—the general seems to have been doing an outstanding job.

The school's academic environment in recent years consistently has been ranked among the nation's best by the Princeton review. In 2000, the academy earned the review's top ranking for providing the best overall academic experience for undergraduates; and it tied for third in that category in 2001, 2002 and 2003. Last year the school also took top honors in terms of professor accessibility, the study habits of students and the excellence of its library. FAA's undergraduate engineering program was ranked fourth best in the nation by U.S. News & World Report in 2000, 2001 and 2002; and sixth in the nation in 2003.

We read a lot these days about cadet surveys, mostly revolving around the school's sexual climate or reform efforts. But in another survey, the National survey of Student Engagement, fourth-class and first-class cadets in 2002 ranked the school highly in terms of academic challenge, active and collaborative learning, student-faculty interactions and a supportive campus environment.

During his tenure, Wagie has brought the academy into its own as a top-flight research university. Funding for research has quintupled since 1997, from $2.6 million to $123 million this year, collaborative research work with private companies, universities and federal agencies has increased, and five new research centers have been added, engaging the talents of 887 faculty or staff and 230 students.

And the research has real world relevance for the Air Force and the nation. One team of academy researchers solved a battery problem plaguing the unmanned serial vehicles playing such an important role in the war on terror, doubling the air-crafts's range and greatly reducing battery costs. And they did it in less than two months. The school also in the past year provided high performance computing supporting addressing stability problems that have plagued the V–22 tilt-rotor aircraft program, and helped enhance the capabilities of C–130 ''Commando Solo'' aircraft, which handle psychological operations and civil affairs broadcast missions in Iraq, Afghanistan and elsewhere around the world.

In spite of being buffeted by occasionally ugly news, it's clear that on at least one important front—academics—Wagie and the academy continue to soar high above most other U.S. institutions of higher learning.

TRIBUTE TO MAYOR PAUL TAUER

HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. TANCREDO. Mr. Speaker, profound political change has come to Aurora, Colorado, and that change provides an opportunity to reflect on the contributions of Mayor Paul Tauer and City Councilors Barb Cleland, Bob LeGare, Bob Perosky and Dave Williams.

These dedicated public servants had a profound impact on a growing and vibrant city. Aurora has grown dramatically and it is now one of the largest city in the nation—indeed people now refer to the Denver-Aurora Metro area. Aurora's population is approaching 300,000, or almost the size of Buffalo, New York and St. Paul, Minnesota. During this period of rapid growth, these civic leaders insured that services kept pace with growth, and that growth met the needs of the residents.

Few people contributed more to this process than the out going Mayor Paul Tauer. He served as Mayor from 1987 to 2003, and sat on the city council for eight years prior to his election as Mayor. During his tenure, the face of the city was literally reconfigured to respond to the demands of the 21st century.

During the Mayor's tenure Fitzsimmons Army Medical Center was closed and it was replaced by the largest medical facility between Chicago and California. The former Fitzsimmons campus is now home to the University of Colorado's Health Science Center, the University Hospital, the Lion's Eye Bank, the University Physicians HMO and a large and growing biotechnology research park which has become a magnet for research and development firms in the Rocky Mountain Region. Soon the former Fitzsimmons campus will be the location of a new Denver Children's Hospital and a new Veterans Administration Hospital, replacing the antiquated facility in Denver. The Fitzsimmons campus will employ more than 30,000 people and generate untold millions in revenue.

The phenomenon of Fitzsimmons was not the only notable development contributing to the increasing dynamism of Aurora. Buckley Air National Guard Base became Buckley Air Force Base, a new facility of the Air Force Space Command. Ongoing growth at Buckley is likely to continue as the role of space-based defense in our national security grows to meet the requirements of military transformation and the war on terror. It was Mayor Tauer who worked actively with the Air Force to make the new base a reality ensuring that the requirements for national security were balanced against the requirements of a growing urban community.

Mayor Tauer also presided over the redevelopment of ''original'' Aurora and development of the Southeast area of the city. This revitalization was accomplished by a city-wide growth management plan which created realistic, yet forward-looking standards for ''quality'' and ''smart'' growth. Aurora's implementation for these policies has won widespread recognition for its excellence.

Perhaps in no area was Mayor Tauer's foresight more evident than his leadership on water resource issues. During his time in office Aurora has acquired new water resources, increased distribution and treatment facilities and implemented innovative recycling and drought management policies. The result has been an effective doubling of water system capacity. Among his most notable achievements was forging an agreement with the Department of Interior's Bureau of Reclamation that ensured the city's storage facility in the Bureau's Pueblo Reservoir. I am currently working with Representatives BEAUPREZ and HEFLEY to codify that agreement in federal law.

Mr. Speaker, Mayor Tauer has been the force that has given shape, form and a distinctive identity to Aurora. Nowhere is this more evident than in the new Aurora Municipal center. The new urban core of the city includes a recently opened municipal building, public safety building, a central library and museum. Together, they constitute the virtual center of this increasingly urbane metropolis. This distinctive city locus took shape during the tenure of Mayor Tauer.

Paul Tauer did not do it alone. Working with him for growth and progress in Aurora was an exceptional cadre of city councilors whose vision and understanding contributed mightily to the city.

Barb Cleland served on the council for two decades and focused on insuring that public safety and public services in Aurora were unrivaled. An early advocate of victims' rights, her leadership and influence extended beyond Aurora to the National League of Cities and other municipal groups. The valuable contributions to all areas of city governances will be sorely missed.

Edna Mosely spent 12 years on the city council. Edna, whose husband was one of the

original ''Tuskegee Airmen,'' worked tirelessly on behalf of military veterans and was actively involved in military cultural diversity issues. She served with distinction on a host of city boards including the Fitzsimmons Commission and served with distinction on the Fitzsimmons Redevelopment Authority Executive Committee, Aurora Economic Development Council, Denver International Airport Business Partnership, Lowry Economic Recovery Project, Adams County Economic Development Council, Community College of Aurora Advisory Council and Aurora's Business Advisory Board.

In 10 years on the council John Parosky was a voice for fiscal prudence and effective and efficient government. He brought his financial expertise to bear in ensuring that tax dollars were used as optimally as possible. His commitment to the city can also be found in his work; he devoted countless hours to make Aurora a better place through his work on the Economic Development Committee, E–470 Authority, Aurora Chamber of Commerce, Utility Budget Committee, Visitors Promotion Fund, Aurora Education Foundation, Spirit of Aurora, Community Housing Services and Aurora Rotary club.

An eight year veteran of the council, Bob LeGare was a passionate advocate of small business, who took in a leadership role in many economic development programs. Bob was devoted to the importance of small business, he worked to make Aurora a partner with business to provide jobs and services. He provided leadership on a variety of economic development initiatives including the Fitzsimmons Redevelopment Authority, Colorado Commission on Taxation, Aurora Citizens Advisory Budget Committee, Colorado Office of Regulatory Reform Advisory Board, Aurora Chamber of Commerce, Aurora Association of Realtors and the Aurora Realtor Governmental Affairs Committee and further contributed to the community through Leadership Aurora, Aurora Museum Foundation, and Aurora Open.

Dave Williams served 11 years as a member of the Aurora City Council. He worked to improve the efficiency of the city by encouraging better review processes and more efficient administration. He has been a leader in the business community as illustrated by his experiences on the Aurora Economic Development Council, E–470 Authority, Aurora Rotary Club and the Urban Drainage and Flood Control District.

Mr. Speaker, these dedicated officials deserve our thanks. At a time when cynicism about public officials appears to be the prevailing sentiment, they provide models of dedication and selflessness that defy these contemporary stereotypes. I am honored to have worked with them and wish them well in the days ahead.

CONGRATULATING THE UNIVERSITY OF SOUTHERN CALIFORNIA ON THEIR PAC-TEN CHAMPIONSHIP AND ROSE BOWL BERTH

HON. DIANE E. WATSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Ms. WATSON. Mr. Speaker, I am proud to count the University of Southern California among my constituents in California's 33rd Congressional District. This institution is a magnet for diverse people and ideas, attracting students from all 50 states and more than 100 foreign countries. In fact, USC ranks in the top 1 percent amongst the most diverse private research universities in the nation. As an educator, I am inspired to see USC's commitment to academic excellence.

Mr. Speaker, today I rise to pay tribute to the accomplishments of the University of Southern California football team. Congratulations are in order for USC President Steven Sample, Head Coach Pete Carroll, and the outright Pac-Ten champions, who finished the season with the #1 national ranking in both the AP and Coaches polls.

The USC Trojan football team has shown unique skill, charisma, dedication, and love for the sport. The Trojans accumulated an 11–win and 1-loss record while competing against some of the best programs in the country.

The Trojans regular season performance and their strength of schedule earned them a controversial Bowl Championship Series, or BCS, berth. Although it is a system no one can make sense of, I am pleased that the real National Championship will be decided during the ''Grand Daddy of them all''—the Rose Bowl. As those steeped in football tradition know, a Pac-Ten vs. Big Ten match-up in the Rose Bowl, with a #1 ranked team in the game, is a formula for champions.

Mr. Speaker, again I congratulate USC President Steven Sample, Head Coach Pete Caroll, and the football team at the University of Southern California for a season to remember.

ARMENIAN TECHNOLOGY GROUP AND CENTRAL DIAGNOSTIC LABORATORY IN ARMENIA

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. NUNES. Mr. Speaker, I wish to take this opportunity to clarify a key provision in Fiscal Year 2004 Foreign Operations Appropriations which was included in the Consolidated Appropriations Act of 2004.

As you know, this Congress continues to be a supporter of strong U.S.-Armenian relations to include economic and related programs. In fact, this bill appropriates $75 million to help Armenia with its continued progress toward a market-oriented democratic nation.

However, it is not just economic assistance that Congress is voting on today. We are also voting on a provision which expressed the intent of Congress that the U.S. Agency for International Development provides sufficient funding to establish and operate a Central Diagnostic Laboratory in Armenia that can serve the Caucasus region. Currently, there is no such resource in Armenia or the region to safeguard human health and food safety against the threat of contamination or spread of disease.

I believe it is the intent of this Congress that the U.S. Agency for International Development utilize the services of the Armenian Technology Group, a U.S.-based nonprofit organization, to work with Armenian officials to establish and begin operations of this Central Diagnostic Laboratory. Furthermore, I believe it is key that this work begin as early as possible so that the Caucasus region, and by extension the United States, can benefit from the protection provided by this Central Diagnostic Laboratory.

IN MEMORY OF THE GOOD LIFE OF HENRY KALINSKI

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Ms. KAPTUR. Mr. Speaker, I am deeply, privileged today to extend on behalf of the Kaptur and Rogowski families and my brother Steve and myself sincerest appreciation to each of you for offering your support, comfort, and love to Hank's beautiful wife of 50 years, Jackie, and the entire Kalinski family; Linda and Bob, Diane and Jim, Debbie and Jeff; to Hank's sisters Vergie, Sophie, Esther and in memoriam of Angie, Jean and his brother Edward; to his treasured gandchilden, Brian, Heather, Matthew, Kevin, Eric, Shawn, Stacey, and in memory of Jason; and to his four great grandchildren, Tyler, Justin, Connor and Alexis; and his nieces and nephews.

We join together today to pay tribute, in sorrow, but also in celebration, of the life of a patriarch, the father of his family, of a truly good man from a working class family, who loved life. What a lasting gift Hank is to each of us—a happy man. He is smiling on us now, for surely he knew we would be here together with Jackie, at this family gathering. He enjoyed being with family more than anything else in the world. He is experiencing a peace now that the world could not give. Hank remains with us now in a spiritual way.

Hank had more than a smile. He had a grin. We all loved to laugh with Hank. That wonderful laugh that came from deep within—not too loud, but genuine. You knew he wouldn't want anyone to be sad, but to be gratified he lived the life he wished to live for most of his years. And Jackie, you and your family bestowed on him the greatest gift of his life—your unconditional and constant love.

As he was asked to bear this enormous cross of affliction for so many years, you walked at his side. He did so with a rare dignity born of uncommon strength and raw courage. He would want us to cheer his decade long marathon and his family's deep devotion. His suffering became a prayer for all of us and our poor world. Every person who witnessed this great ''Kalinski prayer of devotion'' was changed by its power. Who can ever forget the nurses and doctors who would be overcome by Hank's grin and laughter, even under the most difficult circumstances. The glint in Hank's eyes had no equal.

Now, can you imagine he was the father of three daughters, and the brother of five sisters. But, he was a man's man, a husband to an exceptional wife, a true friend to his sons-in-law, a man who knew how to stand by his loved ones, a builder, a veteran. He was always there, sometimes not uttering a word. He was a Gary Cooper type of character, a quiet strength. He didn't have to show it off.

Happy. Kind. Generous. Funny. Hard-working. Wise. A family man who took unending delight in his grandchildren and

great-grandchildren crawling at his feet or sitting on his lap. You never heard him utter an unkind word. So many precious memories: Christmas, Easter, birthdays, weddings, anniversaries, parties and more parties. perch fishing, darts, his gardens, homemade gifts like the wooden horses that held address plates for our homes, Pearl and Wersell streets, his dog Puck.

I can recall how he went out of his way for each of us. He would make such an effort to meet me along the Lagrange Street Parade route, year after year. Always there. If Hollywood were to cast a true husband and father, brother and friend, they would cast Hank in the leading role.

You still will find him with you—in unexpected moments. You will know he is there, and everything will be all right. I once asked a holy woman why God gave such trials to people who are so good. ''To make us strong,'' she said. Hank taught us love, joy, and perseverance. He has been a man for others, who showed us how to love life.

May God carry his soul gently in his passage to peace. We know God joins with us today as we pray, ''Sleep well my good and faithful servant.''

HONORING COLLEEN ANN MEEHAN BARKOW, THOMAS J. MEEHAN III, AND JOANN MEEHAN

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mrs. MALONEY. Mr. Speaker, I rise today to pay tribute to Colleen Ann Meehan Barkow, who perished in the attacks of September 11, as well as her father and mother, Thomas J. and JoAnn Meehan, who still suffer from her loss. The following is a letter sent to my office by Thomas J. Meehan III, which I want to submit to the CONGRESSIONAL RECORD.

DEAR REPRESENTATIVE MALONEY: Colleen was an employee of Cantor Fitzgerald working on the 103rd floor. Her partial remains, the upper torso, were found on September 17, 2001, the date which was to have been her first wedding anniversary. My wife and I continue to be filled with the anguish of her death, the manner in which she died, her unviewable remains, dismemberment and the tragic death she suffered.

I am writing you today in regard to the legislation you have introduced calling for a federal study to assess the historic value of the WTC footprints and to assess the appropriateness and feasibility of national monument status for that immediate area.

This legislation is important not only to the families of those who lost family members, but to the Nation and the world, for September 11, 2001 is another day that will live in infamy, and has altered the course of world history.

There are those who dispute its parallels in history, but they cannot be disputed. Gettysburg, the attack on Pearl Harbor, and Normandy are events which have so affected the world, and have preserved for future generations the places of the lives lost and bloodshed, so that freedom and democracy will continue upon the world stage.

These historic events have warranted a national preservation of where American lives have been lost and sacrificed. So that their sacrifices would be remembered for future generations, and maintained by a grateful nation, is the reason why this legislation should be enacted for the lives lost on September 11, 2001; they deserve nothing less.

The preservation of the footprints of the WTC buildings and the surrounding area designation as a national monument is needed to ensure that we as a nation keep our pledge to ''Never Forget''. We must secure the site and preserve for future generations the ground which has been become sacred and hallowed by the loss of the blood of all the victims.

Sincerely,

THOMAS J. MEEHAN III.

TRIBUTE TO STAFF SGT. MORGAN DESHAWN KENNON AND THE 101ST AIRBORNE

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. FORD. Mr. Speaker, I rise today to pay tribute to Staff Sgt. Morgan DeShawn Kennon of the U.S. Army's 101st Airborne Division, who was laid to rest in Memphis, Tennessee on November 14.

Morgan Kennon and the 101st Airborne were called to duty in defense of this nation. They answered that call with courage and honor. Staff Sgt. Kennon was killed while protecting his fellow soldiers from an ambush in the Northern Iraqi city of Mosul. He was posthumously awarded a Bronze Star and Purple Heart for his bravery.

In honor of Staff Sgt. Morgan Kennon and the brave members of the 101st Airborne, I would like to submit for the RECORD letters Staff. Sgt. Kennon wrote to his sister Nicole Crawford in Memphis, as well as two articles from the Memphis Commercial Appeal.

Amidst the ''devastation of war,'' the clarity with which Staff. Sgt. Kennon expresses himself makes all of us proud. These letters help us better understand the trials endured by our soldiers and the courage they demonstrate each day. I would urge my colleagues to read Staff. Sgt. Kennon's letters and join me in paying tribute to this exceptional young man and all of the heroes of the 101st Airborne Division.

[From the Memphis Commercial Appeal, Nov. 14, 2003]

LETTERS TO A SISTER

From the war in Iraq, Staff Sgt. Morgan DeShawn Kennon of Memphis sent letters home to his sister Nicole Crawford. He often spoke of Crawford's 12-year-old daughter, Kayla, and his mother, Paulette Crawford-Webb.

April 12, 2003

''I am in Baghdad now. I don't know where I may be when you read this but I will probably still be here. It's been very different here, Niki. The reason for the war, or the ulterior motives that the government may have, regardless of all of those things, the one true thing I can say is that these people were very oppressed and impoverished under the rule of Saddam.

''The welcome we've received in the cities and especially when we got here was unbelievable and overwhelming. The people here have even been giving us information about the enemy and the bad guys. Right now, we are occupying a school, that is where we are operating from.

''We have been staying in abandoned buildings and schools since we came into Iraq. This particular one is in the ghetto of Iraq; something like the projects. But the friendly neighborhood closeness makes it peaceful, there are some bad guys that live near (here) that the people told us about, but we've been sniffing them out and they've been scattering.

''I have seen a whole lot more and more each day. Every since the city collapsed there has been a lot of looting. On our way to Baghdad we saw kids, women covered up, men, everybody toting furniture, rolling tires, dragging refrigerators across the street. And the children, they are the most friendly and beautiful of all.

''It's still not too safe for comfort but fortunately the Good Lord has been with us so far. I have kicked in a lot of doors, been shot at by snipers. I haven't killed anyone but we've captured a lot of people and seized a whole lot of weapons and stuff. I have seen firsthand the devastation of war and I realize that in war, someone always suffers, in this case, a lot of people. But I will say that this whole campaign has been very surgical and precise in not killing a lot of people (innocent). I will just be happy to get back home, safe and soon. I have been hearing rumors that we may be coming back soon and being relieved by another unit but when I get details, I'll let you know. . . .

''Just keep your head up and be thankful everyday that all of us are waking up and loving each other. I saw a man shot over here and it really let me know how quick and unsuspecting our days can come to an end. So keep going 90 miles per hour with your life and know that your brother loves you, respects you and is proud and honored to have you as a sister. . . .

''How is everybody? Tell all of your friends that I said 'hi' and testify to the church that I am very thankful for their prayers. The presence of the Lord is undeniable and obvious.''

April 20, 2003

''How is my favorite sister? Fine I hope. . . . I am so happy to hear and feel the effort that you are putting into your life. I'm proud of you and hope you can continue to take good care because you know that no matter how much hardship or struggle I feel or go through, I'm fine as long as I know that you and mom and Kayla are OK.

''By the time you get this I will be in Northern Iraq near the Turkey border. . . . And once again thank you for taking care of my bills. I told you in the last letter that I might be coming home soon. Well, don't count on that; no one seems to know anything. I'll keep you updated.''

April 26, 2003

''I'm still up north but we've relocated. We now operate and live in a post office. Can you believe that? It's not that bad though. There's electricity and running water here, which is a huge improvement over some of the places we've had to live in. . . . I can speak a little Arabic now (smiley face). The people here are not as dangerous and the threat level is not as high as it was in Baghdad and the other previous cities but we still have to stay on our toes even though the war is ''officially'' over there are still a lot of rebel forces and fanatics and loyalists of Saddam and the party regime. . . .

''So how's the family? I still pray for everybody every single day. I don't know when I will be back but I've heard everything from June to September. . . .

''When I know that you all are comfortable and OK, I can deal with being uncomfortable. Y'all's convenience means a whole lot to me. Well, enough about that. I realize that God will continue to operate and provide for us (in his sometimes ''weird'' way) as he has been so I won't worry about it. He will make

sure the ball continues to roll for us as long as we keep Him first and continue to recognize and acknowledge Him. . . . The next time I write you I'll probably be living in a shoe store or a Mega-Market or something. But know that I'm OK and I am very grateful for God's grace and mercy. Keep taking care of yourself and I can't wait to see you again. Don't forget your vitamins!''

July 13, 2003

''Everything is still the same here. A couple of my friends broke down on the interstate here and they were attacked by hand grenades that were thrown at them from a passer-by. One of them got hurt pretty bad, he went through surgery but he is OK. He almost lost all usage of his arm; the other guys are also stable.

''The irony is that I had just left where they were and had talked with them. Other than that, everything is still the same. You don't have to worry about me. I am always alert and watchful, especially when I'm out in the streets here.

''By the time you get this (hopefully) we should start preparations to leave here. I really can't wait to get back. I want to see my ''3 ladies'' really bad: you, Mama and Kayla are more than enough inspiration to get back soon and safe.''

July 25, 2003

''Things are all right with me over here; of course I could think of a million and one other things I could be doing other than being in Iraq but since I'm here, I'm dealing with it every day. I think I'm growing up a little bit. . . . I think I value life more now, so I'm content with small simple things and most of all my enjoyment and peace of mind comes from y'all being all right and safe. I think that means more to me than anything over here.''

Sept. 13, 2003

''My dear sister, you have done so much for yourself and your daughter. Many people face adversity in their lifetime but very few of these people are able to keep climbing the high hills the way you have. . . . Love you Nik and thank you so much for giving me more wisdom than you ever know, helping me develop into a man. . . . P.S. Load up on Vitamin C and tell Mama to drink Concord grape juice. It lowers blood pressure by 40 percent.''

[From the Memphis Commercial Appeal, Nov. 14, 2003]

''HE WAS NOT AFRAID'': BELOVED SOLDIER FELT A PURPOSE

(By Shirley Downing)

In his letters home, Army Staff Sgt. Morgan DeShawn Kennon wrote about living in a war zone:

Camping in old buildings.

Dodging snipers' bullets.

Meeting friendly, beautiful children.

Kennon landed in Iraq in April with the 101st Airborne and a job to do. The Americans gained control of the country and then, for months, Kennon heard rumors that his Charlie Company might soon be headed back to the states.

Last Tuesday, Kennon surprised his family with the news that he would return to Memphis Nov. 19—not for good, but for a two-week furlough timed to celebrate his mother's 47th birthday.

Three days later Kennon, 23, was dead, fatally wounded while guarding a bank in Mosul. The Army said he'd died immediately of blunt force trauma to the head, while trying to protect the safety of his fellow soldiers.

Kennon's family is devastated at the loss of a son, a brother, uncle and brave soldier. He was a Christian who reminded his sister to pray—and to take her vitamins.

Funeral services will be at 11:30 this morning at N. J. Ford & Sons Funeral Home, with burial in the West Tennessee State Veterans Cemetery at 4000 Forest Hill—Irene.

Kennon has been recommended for a Bronze Star, but to family and friends, he's always been a hero.

''I have never met anyone who disliked him,'' said his 26-year-old sister, Nicole Crawford, whom he called Niki or Nik. ''He was funny and smart. He was just wise beyond his age, he really was.''

Paulette Crawford-Webb, a pharmacy technician at University of Tennessee Bowld Hospital, said her son ''was not afraid of dying for his country.''

''He said the people of Iraq needed help. Conditions over there were deplorable and he didn't think it was a lost cause.''

Kennon graduated from Central High School in 1997.

''He made great grades but he got an N in conduct,'' Crawford said. ''He wasn't involved with gangs or criminal activity; he was the class clown. He liked to make people laugh and that kept him in trouble a lot.''

After school, Kennon worked at Taco Bell, where he quickly rose to management. ''He was just really smart and excelled in everything he did,'' Crawford said. ''It might take somebody else five years but he just did it in a year or two.''

He loved the Tennessee Titans and movies and wrestling, said girlfriend Corporal Ghana Jackson, 23. She met Kennon when both were stationed at Fort Hood, Texas. ''He was awesome,'' she said. ''He got along with everybody and he had no kind of enemies.''

Kennon joined the Army at 17 and left for basic training at 18. After four years at Fort Hood, he re-upped and was assigned to the 101st Airborne at Fort Campbell, Ky.

The family last saw Kennon in February before he went overseas.

Baltimore Sun reporter Scott Calvert came to know Kennon well in the opening days of the war.

Kennon, he said, was the nuclear, chemical and biological expert for the Third Battalion's Charlie Company. His first sergeant said Kennon often worked overtime, and weekends, to make sure everyone was prepared for war.

''His job was to make sure everybody in the company, 130 soldiers, had the proper chemical masks and suits,'' said Calvert, who was embedded with Kennon's unit for seven weeks last spring. ''His job was to make sure everybody was ready with protective gear.''

Calvert first met Kennon at Fort Campbell the day the troops shipped out.

''It was chaotic,'' Calvert said. People were milling about, gathering equipment, saying goodbye.

In the midst of the crowd, Kennon approached Calvert. Did he have all his equipment? Did he need help? ''It was a pretty nice gesture on his part,'' Calvert said.

Calvert said Kennon was a solid ''stand-up guy'' who always wore a bright smile.

The company was in Kuwait for a month, then it was on to Iraq.

Kennon called home sometimes once or twice a week. He asked about his beloved black Dodge Intrepid, which he let his sister drive with the promise she would not smoke up its pristine interior with her cigarettes.

His letters came regularly, handwritten on lined paper. Once he teasingly asked his sister to write more often about what was going on in his hometown.

''Where is the scoop? The gossip? The news? The sports news? Where is it? You slippin' girl.''

He wrote about family and a man's obligations to care for his loved ones.

''There is nothing more impressive and respectful to me than a man that takes care of his family.''

He wrote about happiness and God.

''I pray about that (happiness) too, but we gotta take one thing at a time and just be thankful that things have been good for us. . .''

There were other letters, and phone calls. The last was Tuesday, Nov. 4, when Kennon said he'd be home in a few days. He was eager to see family.

Things in Iraq were getting ''a lot worse,'' Crawford quoted her brother as saying.

The family had sent him a ''care package'' filled with canned fruit, but he hadn't received it yet.

Then came the final mission. At about 7 a.m. on Nov. 7, Kennon led a convoy of vehicles to an observation post. Kennon was killed during an ambush as he was trying to protect his fellow officers, Kennon's supervisor said in a letter recommending the Bronze Star.

Crawford said she never fully understood why her brother was in Iraq, but she accepts that he ''went because he was doing something he loved. He loved being in the military.''

Paulette Crawford-Webb said her son did not worry about his personal safety. ''He said his only sadness would have been if something happened to him, what would become of me, his sister and his niece?''

Crawford said her brother truly was an exceptional person.

''He was a God-fearing young man. He was not afraid to die.''

(By Shirley Downing)

[From the Memphis Commercial Appeal, Nov. 15, 2003]

HOST OF MOURNERS BEARS SGT. KENNON HOME

Army Staff Sgt. Morgan D. Kennon of Memphis was given a hero's farewell Friday morning, a week after he was killed in Iraq.

''Death reminds us of the sovereignty of God, and the frailty of man,'' Rev. Arthur Snow, pastor of Greater New Shiloh Baptist Church, said to more than 500 mourners attending services at N. J. Ford & Sons Funeral Home.

Kennon's Bronze Star and Purple Heart were displayed next to his flag-draped coffin. Large sprays of red and white flowers surrounded the casket and the dais where dignitaries sat.

After the morning services, the funeral procession traveled past honor guards of firefighters and schoolchildren with signs as it made its way from South Memphis to the West Tennessee State Veterans Cemetery in southeast Shelby County.

Military honor guards gave folded flags to Kennon's mother and father. A 21-gun salute for the soldier, the first Memphian killed in the Iraqi war, broke the chilly fall air.

Kennon, who was 23, joined the Army at 17 and left for basic training at 18. After four years at Fort Hood, Texas, he rejoined and was assigned to the 101st Airborne at Fort Campbell, Ky.

The family last saw Kennon in February before he went overseas.

He was fatally wounded during an attack on an Army convoy guarding a bank in Mosul. The Army said he died immediately of blunt force trauma to the head, while trying to protect fellow soldiers.

Kennon has been described as a smart, friendly man who loved the Army, his family and God. He often wrote letters home telling relatives not to worry, he was not afraid.

U.S. Rep. Harold Ford Jr. said he was moved by Kennon's letters, portions of which were printed Friday in The Commercial Appeal.

''In the midst of all that was going on over there, the clarity with which he expressed himself makes all of us proud,'' Ford said, as he addressed Kennon's tearful family in the front pews at the funeral home.

A top Army officer from Virginia and members of the 101st Airborne attended services.

''We are here to be with the family, to respect and honor this great soldier,'' Maj. Gen. Russell L. Honore of Norfolk, Va., said before services began. ''He served proudly and with distinction for our nation.'' Honore said he represented the Secretary of the Army and the Chiefs of Staff.

Shelby County Mayor A C Wharton thanked Kennon's family on behalf of the citizens of the county.

''We share your loss,'' he said.

Several of Kennon's friends spoke about his loyalty, honesty and his love for family and the military.

Snow's eulogy was so passionate the minister had to sit down for part of its delivery.

Kennon was ''a good man who could have at the age of 23 been on the streets doing nothing, but he chose to do something positive and constructive with his life. It is unfortunate that he was cut down at an early age,'' he said.

Snow offered comfort for Kennon's mother, Paulette Crawford-Webb, his father, Morgan Kennon, and other relatives and friends.

''In spite of all that has transpired, God is still good,'' Snow said. ''You need to know and understand today that Earth has no sorrow that Heaven can't heal.''

He said Kennon knew the risks of a military career, ''but he trusted God.''

Kennon was a soldier in the U.S. Army and a soldier in the army of the Lord who did not fear death, Snow said.

''He was prepared externally and he was prepared internally. He wasn't afraid of what could happen to him because he knew that with Jesus, he would be all right.''

CONGRATULATING TO THE SAN JOSE EARTHQUAKES

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. HONDA. Mr. Speaker, I rise today to congratulate an extraordinary team on an extraordinary season. On Saturday, November 23, 2003, the San Jose Earthquakes became the second team in Major League Soccer history to win the Major League Soccer Cup multiple times, thrilling soccer fans around the country and around the world.

The Earthquakes' 4–2 victory over the Chicago Fire showcased the team's explosive talent and demonstrated why soccer is one of the fastest growing sports in America today. This match featured more goals than a Major League Soccer championship has ever seen, including two from two-time U.S. National Team Player of the Year and MLS Cup MVP Landon Donovan.

The Earthquakes' rise to the MLS championship game provided soccer fans with endless high drama, including a five-goal comeback against the Los Angeles Galaxy to advance to the Western Conference final, and a 3–2 victory over the Kansas City Wizards, in which Landon Donovan sealed the championship birth with a golden goal in the 117th minute of play.

In the championship game itself, the San Jose Earthquakes showed a capacity crowd in Carson, California and a national audience four goals, one saved penalty kick, and 90 minutes of world-class soccer. Throughout that game, and throughout the season, the Earthquakes played aggressive, attacking, exciting soccer and delighted San Jose's growing legion of fans.

The sportsmanship and gamesmanship of the Earthquakes have helped bring success to Major League Soccer. Only eight years old, this league has already captured the hearts and imaginations of soccer fans around the country and provided the United States with some of the world's best players—many of whom were instrumental in bringing our country to the quarterfinals of last years World Cup, held in Japan and Korea.

Today, the Earthquakes are the pride, not only of San Jose, but also of America's entire sports community.

I urge all of my colleagues to join me in recognizing the 2003 Major League Soccer Champions, and I congratulate the San Jose Earthquakes on a fantastic season.

CONDEMNING THE ''GRAND THEFT AUTO: VICE CITY'' VIDEO GAME: ANTI-HAITIAN RACISM AND STEREOTYPES HAVE NO PLACE IN AMERICAN SOCIETY

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. MEEK of Florida. Mr. Speaker, I rise today to bring to the attention of my colleagues, and to condemn in the strongest possible terms, a Rockstar Inc. video game entitled ''Grand Theft Auto: Vice City.'' This game has no place as an amusement in this country because it purports to make ''fun'' using racist and stereotyped images of Haitians and Cubans.

This despicable video game portrays Haitians as ugly criminals and lower forms of human life who must be obliterated once and for all. In order to win the game, the player—an ex-convict—is hired to recover stolen drug money on the streets of Miami. In his pursuit, he faces police officers and gangsters from Cuba and Haiti. Armed with a machete, knife, gun and baseball bat, the game urges players to ''kill the Haitians'' and ''kill the Cubans.''

What makes this matter even more offensive is that, by its immigration policies and pronouncements, the Bush Administration fosters a view of Haitian asylum seekers as potential terrorists rather than bona-fide refugees.

It is hard to see how such contemptible acts could be seen as ''fun,'' for this video game is scandalous and hateful and deeply offensive to Haitian and Cuban Americans and every decent American concerned about racism and violence in this country.

I ask this Congress and all people of goodwill to join me in condemning this hateful video game and to do everything possible to increase public knowledge of it and thereby to limit its acceptance in both domestic and foreign markets.

Mr. Speaker, I represent the largest Haitian constituency in the United States, and this video game is demeaning, demoralizing and deeply hurtful to hundreds of thousands of hard-working, law-abiding Haitian Americans and their families in South Florida and in this country. It does not take much to imagine the destructive impact that the repulsive images of this game would have on youngsters, whether they are Haitian-American, Cuban-American, or not.

This video game symbolizes the very lowest of our nation's values. It is deeply disturbing, not only that the manufacturer would seek to profit by the sales of this game, but that people would buy it. I urge all my colleagues, and every American, to take a firm stand against such commercial trash and to rededicate ourselves to the principles of freedom and liberty that such hatred cannot destroy.

REMOVAL OF U.S. TARIFF ON ORANGE JUICE IMPORTS WOULD NOT ENHANCE FREE TRADE

HON. TOM FEENEY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. FEENEY. Mr. Speaker, three weeks ago the leaders of more than thirty nations around the Western Hemisphere gathered in Miami for the Free Trade Area of the Americas (FTAA) Eighth Ministerial meeting for the purpose of expanding free trade within the Western Hemisphere.

I watched with great interest as these negotiations progressed, fully cognizant of the significant impact that they could have on my state of Florida.

Free trade and free markets are essentially about making trade easier by allowing the market to balance needs, supply and demand. We are engaged in a battle to tear down trade barriers around the world in an effort to promote jobs, competition and greater prosperity for all countries involved. Since Adam Smith explained the benefits of free trade in his great work ''The Wealth of Nations'', thoughtful policy makers have understood the need to reduce these barriers. The famous economist Joseph Schumpeter once proclaimed that capitalism relies on the free flow of information and goods.

The talks in Miami generated positive movement towards greater economic integration in this hemisphere. Trade Ministers agreed to a baseline of minimum standards for a full and comprehensive agreement that takes into account differing levels of development among nations. This framework is a step forward that gives nations needed flexibility.

As we continue these discussions, I would caution the negotiators to find an acceptable balance between the need to open up to new foreign markets and to protect an industry that is vital to America's supply of fresh fruit and Florida's economic infrastructure: the Florida citrus industry.

There are only two countries that produce 90 percent of the world's orange juice: the United States and Brazil. Brazil currently sells to the United States and has a large market share in the European Union. Without competition from the Florida citrus industry, Brazil would enjoy a monopoly over world orange juice production.

The citrus industry in Florida generates revenues of $9.1 billion each year and employs nearly 90,000 people without subsidies from the Federal Government. A collapse of this industry would not only cost tens of thousands of jobs, it would also cost the State and local governments of Florida up to $1 billion in lost tax revenues.

Removal of the U.S. tariff on orange juice imports would not enhance free trade. It would rather give Brazil a total world monopoly, make that country the world's dominant citrus producer and enable them to control market supply, access and prices with no competition.

The Brazilian citrus industry has benefited from years of subsidization, dumping, lax environmental laws, price manipulation and weak and largely unenforced labor laws. I would urge our negotiators to insist on drastic reforms in the Brazilian citrus industry prior to agreeing to any tariff changes. Florida's citrus industry can compete with Brazil, or anyone else for that matter, as long as there is a level playing field.

WELCOMING ELANA HELEN KAPLAN

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. OSE. Mr. Speaker, it is with great pleasure that I announce the birth of Elana Helen Kaplan. Elana was born on Tuesday, November 18, 2003 at Fairfax Hospital in Northern Virginia to my former Legislative Director, Jim Kaplan, and his wife Stacie.

Almost exactly two and a half years ago I welcomed Elana's twin sisters, Shauna and Sierra, on the floor of this House.

Today I join Shauna and Sierra in welcoming their baby sister Elana. Among the proud family members who join me in welcoming her are her grandparents: Dr. and Mrs. Jerold Kaplan of California, and Mr. and Mrs. Harold Rothman of Maryland. Stacie's sister, Ms. Amy Rothman, Jim's brothers, Lt. Scott Kaplan (USN) and Mr. Glenn Kaplan, Stacie's grandmother, Mrs. Doris Scherr, and Jim's grandparents, Mr. and Mrs. Bernard Schwartz also join me in this joyous welcome.

These three little Kaplan girls owe much to this chamber, as Jim met their mother Stacie through a fellow congressional staff member and proposed during a tour of the Congressional dome in 1997.

As the father of two daughters myself, I can only hope that these young ladies will continue to bring joy and pride to their family and to their community in much the same way my daughters brighten my life every day.

TRIBUTE TO KALAMAZOO COUNTY SHERIFF, TOM EDMONDS

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to Kalamazoo County Sheriff, Tom Edmonds, who is closing a chapter in a long and distinguished career of public service. A dedicated and selfless individual, Tom has served five terms as Sheriff after being appointed to the Office in 1984. Over his tenure as Sheriff, Tom served the citizens of Kalamazoo in a number of capacities, all with great distinction.

Since 1975, Sheriff Edmonds' contributions to our community have been tremendous. From post to post, he consistently received accolades and recognition. In addition to his remarkable service as Sheriff, highlights of his storied career include being Adjunct Professor of criminal law and procedure at Western Michigan University, Chair of the Michigan Commission on Law Enforcement Standards, Brigadier General for the Michigan Air National Guard, and recipient of Citation and Medal for Professional Service from the Michigan's Sheriffs' Association.

Many words come to mind as one reflects upon Tom's public service to our community. He is selfless, brave, generous, giving, caring, humble . . . the list goes on. Tom is widely known for his extensive charity and dedication to local individuals, businesses, universities, and the community as a whole. He spent a career devoted to the protection and safety of the citizens of Kalamazoo, and for this the county is forever in his debt. There is no question that Tom's dedication and contributions to the county will be missed.

Our community is in debt to Sheriff Edmonds for his continued public service since 1975. I wish him and his family all the best in retirement. Tom's contributions to our community have been many, and we are all better off from his service. He will be truly missed by the folks in southwest Michigan. I'm certainly glad he's remaining in our corner of Michigan.

CONGRATULATIONS TO SUNNYSIDE HIGH SCHOOL FOOTBALL TEAM OF TUCSON, ARIZONA

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. GRIJALVA. Mr. Speaker, I rise today in honor of true champions. I am proud to report that on Saturday. December 6th, 2003, the Sunnyside High School football team of Tucson, Arizona once again brought home the Class 4A State Title.

For the second time in three years, the Blue Devils showcased to the state of Arizona their unmatched talent, heart, and dedication. In a 21–13 victory over Glendale Cactus, Sunnyside overcame a roster depleted by injury and what the papers called ''undersized'' players. Mr. Speaker, it's true that the Blue Devils have linemen whose physical stature is smaller than the average. But, as was proved in this past weekend's state championship game, physical size doesn't matter when you have the drive and the hunger for victory that these players do. Under bright stadium lights, under tremendous pressure and expectation, and with a defensive line outweighed by an average of 70 pounds, the Sunnyside Blue Devils came home victorious.

I commend these students and their coaching staff. Their fine efforts have made my hometown, and moreover, my alma mater proud. I wish them the best as they enjoy their victory and begin to look toward next year's winning season.

TRIBUTE TO CALVIN WENDEL

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Ms. DELAURO. Mr. Speaker, I rise to pay special tribute to Calvin Wendel, whose quiet and dedicated service along Interstate 95 in Milford, Connecticut has helped keep our nation's highways safe and important goods and services moving through our region for the last 43 years.

Cal has worked at the Secondi Bros. Truck Stop in Milford since it opened on July 1, 1960. With no other major truck stops in the area, it is highly visible and known in the truck stop industry due to its location. It is the first truck stop in New England off Interstate 95 that drivers come in contact with after leaving New Jersey. Over 120,000 vehicles a day travel past exit 40, Interstate 95 where Secondi is located, and the trucks that stop for service at Secondi are part of a fleet transporting over 72 percent of the goods we have at our homes and in our businesses.

During his tenure at the Secondi Truck and Tire Repair Unit, Cal has serviced over 74,000 trucks. Over the years, his expertise has contributed to the safety and economic security of every one of us. Yet, as much as his technical experience is respected by those who stop regularly at Secondi on their way through Connecticut, it is the personal touch he adds to his service and extends to those around him, dedication, high values, and respect for people, that have endeared him to his customers and peers.

As one of my constituents once said, ''Trucks keep America rolling!'' I urge my colleagues to join with me to honor the service Calvin Wendel has provided to all of us over the years, helping to keep American trucks rolling.

REMEMBERING THE HISTORIC LIFE OF LOUISE ELIZABETH BUIE

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to celebrate the life of Louise Elizabeth Buie, who died on December 2, 2003. This diminutive woman, known throughout her home state of Florida and beyond for her contributions to the civil rights movement in America, packed the equivalent of two lifetimes into her 89 years.

Beginning in the 1930s, Louise Buie, as a member of her local branch of the National Association for the Advancement of Colored People (NAACP), fought against segregation in its many forms. She served as president of the branch for fourteen years during the 1950s and '60s and was at the forefront of every battle to integrate schools, hospitals and restaurants. It was Louise Buie who demanded that black baseball players be allowed to room with their white teammates in West Palm Beach, and it was Louise Buie who insisted that West Palm Beach, Riviera Beach and other cities in South Florida hire African-Americans as police officers and firefighters. Previously, those municipalities had restricted

people of her race to jobs as janitors and laborers.

Louise's voice and dynamic personality were ever-present in seventy years of struggles over school desegregation and dozens of other disputes involving employment discrimination and demands for equal rights for all citizens. At a time when black citizens were denied admittance to most of the county's hospitals, she ignored the skepticism of her fellow African-Americans and started the fight that resulted in the desegregation of Palm Beach County's major medical facilities. When her grandchildren wanted to go to the beach during a time period when beaches were restricted to whites, Louise took her grandchildren anyway. Although she was arrested for her actions, Louise prevailed, and the beaches were opened to all citizens.

It was Louise Buie who forced the abolition of the Palm Beach County school district's ''all white'' textbooks that excluded any mention of the history and contributions of African-Americans in our nation. She was also at the forefront of the movement that brought courses in black history to the curriculum of Palm Beach County schools. As time went by, more and more of the barriers to full participation in our society were broken down by the efforts of this amazing woman.

Mr. Speaker, there is a song that is often chanted at protest marches and rallies. It begins, ''Ain't gonna let nobody turn us around.'' That sums up the life of Louise Buie. No one ever turned her around.

Although Louise was best known and most often honored for her civil rights work, she didn't confine herself to battles for the betterment of the lives of black citizens. Anywhere there was injustice, Louise could be counted on to speak out and assist those whose rights were infringed upon. She became known as the little lady with the big heart.

Her lifetime of fighting against injustice won her innumerable friends and admirers among people of all races and every economic stratum, including myself. Opponents of segregation came to recognize her as a formidable adversary and eventually realized the futility of holding to their outdated views. Elected officials and other powerful people respected her opinions and welcomed her input and wise counsel.

I knew ''Mrs. L.E. Buie,'' as she called herself, for a very long time. I cannot possibly calculate the immense value of all that I learned from her. As with so many other people she met in her lifetime, she was an enormous influence on me. I know how proud she was of my election to Congress, seeing that victory as validation of her decades-long effort to raise African-Americans to a level equal to that of white citizens. Nevertheless, we both knew, and I still know, that America has a long way to go.

Two years ago, in an effort to convince a local town to adopt the Martin Luther King, Jr. holiday for its citizens, Louise Buie, at age 87, walked a mile with other marchers and stood on the steps of the town hall through more than an hour of speeches. When one of my long-time staff members, who had been sitting down, later commented on her stamina, she replied, ''I'm used to standing.'' Until a few weeks before her death, Louise Buie was still fighting battles and collecting awards. In recognition of the many lives she touched and the huge impact that she had on the people of Palm Beach County, the Urban League building in West Palm Beach is co-named for her.

Mr. Speaker, there will never be another human being like Louise Elizabeth Buie. Her impact will be felt for generations to come. She opened many doors, often with only the strength of her personality. Because of her work, innumerable African-Americans and people of all races have walked through those doors, and we are extremely grateful for the phenomenal person that she was. Her memory will live with me always.

INTENT AND OBJECTIVES OF AMENDMENT TO PRESIDENTIAL RECORDINGS AND MATERIALS PRESERVATION ACT OF 1974

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. WAXMAN. Mr. Speaker, on behalf of Mr. DAVIS and myself, I would like to submit the following letters for the RECORD. They provide background on the intent and objectives of the amendment to the Presidential Recordings and Materials Preservation Act of 1974.

RICHARD NIXON LIBRARY
AND BIRTHPLACE FOUNDATION,
November 21, 2003.

Hon. TOM DAVIS,
Hon. HENRY A. WAXMAN,
Committee on Government Reform, U.S. House of Representatives, Washington, DC.

DEAR REPRESENTATIVES DAVIS AND WAXMAN: I would like to express our appreciation for your efforts to amend the Presidential Recordings and Materials Act to remove the requirement that the Presidential records of the Nixon Administration be housed in Washington, D.C. It has been more than 29 years since President Nixon left office. Bringing the Nixon Library into the federal system under the terms of the Presidential Libraries Act and at this time is clearly in the public interest.

The public interest is best served by the unfettered access for historians and the general public to the records of the Nixon Administration. We agree that current regulations on public access will continue to govern public access to these records in the future; that the records remain the property of the United States; and that the Archivist will be responsible for access to the documents at the Nixon Library. It is our understanding that papers and tapes that have been processed may be transferred to the Nixon Presidential Library once an agreement has been reached between the Nixon Foundation and the Archives, but that those records that have yet to be processed shall continue to be reviewed in a timely fashion at College Park, Maryland. Of course, the ongoing review of records at College Park should not delay the transfer to California of records that have already been processed.

The Nixon Foundation is eager to complete discussions with the Archivist in a timely fashion and looks forward to that opportunity.

Sincerely,

JOHN H. TAYLOR.

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, November 20, 2003.

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

DEAR MR. SPEAKER: Congressman Waxman and I seek to memorialize the amendment to the Presidential Recordings and Materials Act of 1974 included in the Transportation and Treasury Appropriations bill. The measure the Congress is adopting today will make clear that the Presidential Papers of Richard Nixon are eligible for transfer to the Nixon Presidential Library. Under the 1974 Act, it has not been legal to transfer these papers. The purpose of the provision we are enacting today is to move forward the process whereby the Archivist and the directors of the Nixon Library in Yorba Linda, California, will conclude an agreement on the terms of this transfer.

The provision enacted today makes clear that any agreement between the Archivist and the Nixon Library to bring the Nixon Library into the federal Presidential library system shall be, as has been the case with all other Presidential libraries, subject to the terms of the Presidential Library Act. Those records will continue to be owned by the United States and administered by the National Archives. The Archivist will not transfer any documents to California until he certifies to Congress that he has determined that there is a suitable archival facility to house those documents.

Once the Archivist agrees to accept the Nixon Library into the Presidential Library System and has notified Congress, employees of the National Archives will staff the Library, and the Archivist will be responsible for access to documents at the Library. This measure makes clear the public interest in unfettered access for historians and the general public to the records of the Nixon Presidency.

The National Archives is responsible for reviewing the recordings and materials from the Nixon Administration. This is a complicated task of looking at each document and determining if the release of that document would invade someone's privacy or endanger national security. There are concerns that transferring these materials to California would disrupt the processing of them, delaying their public release. This bill will not affect the processing of the records. Papers and tapes that have been processed may be transferred to the Nixon Presidential Library once an agreement has been reached between the Library and NARA. Those records that have yet to be processed shall continue to be reviewed in a timely fashion at College Park, MD. At the same time, that review should not in any way delay the transfer of processed records to California.

Sincerely,

TOM DAVIS,
Chairman, Committee on Government Reform.

HENRY A. WAXMAN,
Ranking Minority Member, Committee on Government Reform.

A SPECIAL TRIBUTE TO MARGARET O'NEILL FOR HER YEARS OF DEDICATED PUBLIC SERVICE

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. GILLMOR. Mr. Speaker, it is with great pleasure that I rise today to pay special tribute to an invaluable public servant. Margaret O'Neill, the Occupational Health Nurse, will retire from her long career of public service on January 2, 2004.

Margaret was born and raised in Belmont, Massachusetts and graduated from St. Patrick's High School in 1956. She attended Boston University's Medical Center where she majored in Nursing and graduated in 1960 to begin her distinguished record of public service.

With Michael, her husband of 37 years and graduate of the United States Military Academy at West Point, Margaret spent much of her career serving the soldiers of the United States Army. As a military spouse, she volunteered in various capacities for the Army and Red Cross worldwide. Her service includes work in the Fort Meyer emergency room as well as employment as the Occupational Health Nurse for the 3rd Infantry motor pool soldiers and employees serving Arlington National Cemetery.

Her life as a military spouse included 23 moves across the world in 18 years. Margaret and Michael O'Neill are the proud parents of Kathleen, an attorney in Fort Lauderdale, Florida.

Although she retires as the Occupational Health Nurse of the Longworth Building after 12 years of service, Margaret O'Neill will never slow down. She plans to take time to travel and attend Theology classes at Trinity College. In addition, Margaret will continue her volunteer work at St. Peter's in the District of Columbia assisting the poor and homeless.

Mr. Speaker, Margaret O'Neill leaves behind many friends in the Halls of Congress. We are lucky to have experienced her compassion and will miss her dearly. Her wisdom, kindness, and abilities are attributes to which all public servants should aspire. She has set an example for everyone on how to live a life of service, putting the greater interests of the community before one's own.

Mr. Speaker, I ask my colleagues to join me in paying special tribute to Margaret O'Neill. Our nation is served well by having such honorable and giving citizens, like Margaret, who care about their health and well being. We wish Margaret, her husband, Michael, and their daughter, Kathleen, all the best as we honor one of our dear friends.

SPECIALTY CROP COMPETITIVENESS ACT OF 2003

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. HERGER. Mr. Speaker, I am pleased to become a cosponsor of the ''Specialty Crop Competitiveness Act of 2003,'' H.R. 3242, legislation designed to maintain a viable and competitive specialty crop industry in the United States.

It is important to first note that an abundant, affordable supply of highly nutritious fruits, vegetables and other specialty crops is vital to the health of all Americans. Increased consumption of fresh produce will provide tremendous health benefits to consumers, as well as economic benefits to American farmers.

It follows that a competitive specialty crop industry is necessary to produce and sustain a safe and nutritious domestic food supply. A competitive specialty crop industry is also necessary to sustain the economic vitality of rural communities in northern California, and indeed throughout the entire nation.

Unfortunately, it is becoming increasingly difficult for U.S. producers to compete against heavily subsidized foreign producers in domestic and international markets. For example, the European Union provides subsidies of about $11.7 billion per year to its specialty crop growers, while U.S. specialty crop growers receive no subsidies. In addition, U.S. specialty crop growers continue to face tariff and non-tariff trade barriers in many export markets, thus making it virtually impossible for our growers to improve sales through increased exports. In turn, production costs have escalated due to increased environmental and other regulations, and important crop protection tools have been lost, thus making it increasingly difficult to operate profitably.

Specialty crop growers from California and across the country believe federal agriculture policy must address the myriad of unique challenges facing their industry to assure its long-term viability. As such, they have joined together to craft H.R. 3242, and have requested my support.

The bill is designed to increase exports of U.S. specialty crops, improve efforts to protect agriculture from damaging pests and diseases, and provide funding for research necessary for improving the competitiveness of the industry. The activities authorized by this legislation represent a prudent investment in the future success of our $58.7 billion specialty crop industry.

The cost of the bill is relatively modest when compared with other agriculture programs and most other federal programs. Nevertheless, it continues to be critically important, especially during this period of budget deficits and increased spending for our ongoing War on Terrorism and homeland security, for Congress to restrain federal spending. As such, I want to work with the bill's supporters to find acceptable offsets and/or savings from other federal programs that will ensure that the funding authorized under this legislation fits within the existing budget.

I look forward to working with the sponsors of the bill, Congressman DOUG OSE and Congressman CAL DOOLEY, toward future House consideration of this important bill for California agriculture.

INTEGRATING THE GULF OF MEXICO BORDER REGION

HON. KATHERINE HARRIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Ms. HARRIS. Mr. Speaker, I rise today to announce that on November 5, 2003, the Gulf of Mexico States Accord and its business counterpart, the Gulf of Mexico States Partnership, Inc. signed a Memorandum of Cooperation on Short Sea Shipping with the U.S. Department of Transportation's Maritime Administration. The Gulf of Mexico States Accord comprises a partnership between my home state of Florida, Alabama, Mississippi, Louisiana, Texas, and the six Mexican states that border the Gulf of Mexico.

The signing ceremony for this Memorandum of Cooperation took place at the MARAD Short Sea Shipping Conference, which occurred in Sarasota, Florida, a city which is located in my District. Over 200 maritime industry professionals from the United States, Mexico, Canada and the European Union attended this event. In recognition of the outstanding work of the Maritime Administration, the Accord and the Partnership, I request that the English version of the agreement be inserted, with my comments, into the RECORD.

The Memorandum of Cooperation, which constitutes the first such agreement in the Gulf of Mexico region, calls for information exchange, technical assistance and collaboration on issues related to the development of short sea shipping in the Gulf of Mexico. It represents a significant step toward full U.S.-Mexico collaboration on this vital trade issue.

The adoption of an enhanced regional emphasis on the Gulf of Mexico border states is vital as the NAFTA enters its second decade. The initiatives set forth in the Memorandum of Cooperation will leverage resources to develop this ''water border,'' bolstering homeland security, spurring trade expansion, relieving transportation bottlenecks, and reducing pollution through the increased utilization of the Gulf of Mexico's ports and intermodal infrastructure.

The Memorandum of Cooperation also calls for support of the ''Gulf of Mexico Trade Corridor Transportation Study'', which is being spearheaded by the business Partnership in collaboration with the Accord and its Working Group on Transportation, Infrastructure and Communications. The study is based on the premise that the development of the Gulf of Mexico border, with its 62 million inhabitants in eleven U.S. and Mexican states, will have immediate and enduring regional impact on efficient investment in homeland security, identification of and investment in ''critical'' physical infrastructure, tourism and educational development, environmental sustainability, and overall community and international economic development.

The Gulf of Mexico basin constitutes a natural North American economic sub-region, comprising a seaborne NAFTA ''superhighway'' trade corridor, a common sustainable resource for tourism, agriculture, fisheries and aquaculture, and a common homeland security zone. The Gulf represents the ideal location for deepening and broadening the benefits of the NAFTA in preparation for the new flows of two-way trade that I believe will occur under the Free Trade Area of the Americas.

MEMORANDUM OF COOPERATION AMONG THE MARITIME ADMINISTRATION OF THE UNITED STATES, THE GULF OF MEXICO STATES ACCORD, AND THE GULF OF MEXICO STATES PARTNERSHIP, INC.

1. PARTIES

a. The party to this agreement representing the Maritime Administration (MARAD), is the Maritime Administrator or his designated representative.

b. The party to this agreement representing the Gulf of Mexico States Accord (GOMSA) will be the President of the Accord or his designated representative. GOMSA is a forum that was created to foster, promote and implement cooperative relationships between and for the eleven U.S. and Mexican border states that adjoin the Gulf of Mexico.

c. The party to this agreement representing the Gulf of Mexico States Partnership, Inc. (the Partnership) will be the President of the organization or his designated representative. The Partnership is a non-profit private sector Gulf States group that shares the GOMSA goal of fostering and promoting interests of the member states and region.

2. PURPOSE

a. The purpose of this agreement is to recognize and enhance the communications and working relationship among MARAD, GOMSA, and the Partnership in order to address the common goals of advancing short sea shipping in the Gulf of Mexico and ensure that it is safe, secure, efficient and environmentally sound.

b. The agreement serves to facilitate periodic meetings among MARAD, GOMSA and the Partnership to identify ways the respective organizations can assist in the sharing of short sea shipping policy, experience and related information.

3. RESPONSIBILITIES

a. MARAD will share with GOMSA and Partnership MARAD's short sea shipping

i. goals, policies, and experience so as to allow these organizations to use their extensive

ii. state and business networks to improve maritime efficiency, commercial viability, and

iii. short sea shipping opportunities as they arise.

b. GOMSA and the Partnership will share information and experience with MARAD so that they can assist in the accomplishment of MARAD objectives to ease traffic congestion, improve transportation safety, and elevate the quality of life in the Gulf States region through cooperative short sea shipping efforts.

c. MARAD, GOMSA and the Partnership will consult and share information in support of a ''Gulf of Mexico Trade Corridor Transportation Study'', a long-range Partnership project to highlight new commercial opportunities, inventory Gulf of Mexico infrastructure assets, and to identify and assess gaps in existing transportation infrastructure.

d. This agreement is effective upon the signature of the parties. It is informal in nature and may be modified by mutual agreement or terminated by any party at any time. The parties pledge to act in good faith at all times and to use their best efforts to accomplish the purposes summarized herein. This partnership does not obligate MARAD to expend any funds.

Signed the 5th day of November 2003 in triplicate, in Sarasota, Florida in the English and Spanish languages, each version being equally valid.

[Capt. William Schubert, Administrator, for the U.S. Maritime Administration] [Gary L. Springer, Secretary-General, Gulf of Mexico States Accord] [Robert Hendry, Director, Gulf of Mexico States Partnership, Inc.]

COMMEMORATING THE LIFE OF CATHERINE FUREY

HON. TIMOTHY H. BISHOP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. BISHOP of New York. Mr. Speaker, I rise today to commemorate the life of Catherine Furey, a constituent of mine who recently passed away, and was proud to call Long Island home. She lived to mark a landmark occasion that many of us strive for but very few of us reach: Catherine lived to celebrate her 110th birthday.

Catherine was born in County Roscommon, Ireland, on April 6, 1893. At age 20, Catherine left her family and friends in Ireland to make a better life for herself in America. When she arrived in Boston, she immediately moved to Providence, Rhode Island where she joined an aunt to assist with the upkeep of the home of a Protestant minister. Later, Catherine traveled to New York City to serve as a caregiver for a sister struggling with tuberculosis.

After her sister passed away, she began working for a wealthy family in Manhattan, tending the family's summer home in Long Beach. There she met and married Simon Furey. They moved to Hempstead where they raised two children and became active members of this Long Island community.

In the 1950's, Catherine began an 11-year vocation with St. Joseph Catholic School in Garden City where she ran the cafeteria. She helped to see that countless schoolchildren were content and always received a warm meal. After her decade of service to the school, Catherine continued to work and to play an active role in the lives of children by serving as a babysitter for working families in our community, a job she happily performed until her early eighties.

Last April on her birthday, Catherine received a letter from Mary McAleese, President of Ireland, congratulating her on being the oldest living Irishwoman. Catherine Furey was not only the oldest living Irishwoman, but also the oldest living Long Islander at the time of her death on December 2nd at the age of 110.

It is amazing to think of the events Catherine experienced over the course of her lifetime. When she arrived in America looking for a better life, women could not vote and were not able to be full participants in society. She lived not only to see the role of women evolve, but to see this country emerge stronger than ever from World War I, World War II, and the Great Depression. New York was at the forefront of innovation during the past century, and she was right there to witness this tremendous transformation.

Her life is an inspiring story of both strength and wisdom. She is survived by her son and daughter, along with 9 grandchildren and 14 great-grandchildren.

RECOGNIZING MIGUEL ARIAS AS HE IS SWORN IN AS A UNITED STATES CITIZEN

HON. CALVIN M. DOOLEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. DOOLEY of California. Mr. Speaker, I rise to pay tribute to a young man who is being sworn in today as a citizen of the United States of America. Over the past 2 years, Miguel Arias has been a member of my staff in my Fresno, California and Washington, DC offices. Over that time, Miguel has shown that he is dedicated to his family, his friends, his community, and his country. I am honored to rise in this chamber and welcome Miguel as a citizen of the United States.

Miguel was born in Apatzingan, a small city in the state of Michoacan, Mexico. He and his mother, Teresa Arias, immigrated to the United States when he was 2 years old. The Arias family settled in Mendota, California, a small farming community on the western edge of the San Joaquin Valley. It was in Mendota that Miguel began working in the fields picking onions, tomatoes, and melons to earn extra money for his mother, sister, and five brothers. In spite of his long and hard hours in the fields, Miguel excelled academically at Mendota High School and found time to participate in numerous extracurricular activities, including wrestling. Upon graduation from Mendota High School, Miguel enrolled at California State University, Fresno, where studied criminology while working for both the Mendota High wrestling team and the Fresno County Economic Opportunities Commission. In May 2001, he became the first person in his family to graduate from college, earning a Bachelor's degree in criminology from CSU Fresno.

Following his graduation, Miguel began working for me as a staff assistant in my district office, where he made a very strong impression both with me, and with the constituents contacting my office. He was promoted to caseworker, where he specialized in immigration issues facing the people of my district.

It was in this role where Miguel provided his most significant contribution to his community. Miguel has become an expert in the process of immigration to the United States by helping many people in my district obtain visas, work permits, and citizenship.

Miguel was a leader in developing and executing the Mendota Project, which counseled parents and students at Mendota High School on the timeline of the immigration process and advised students on how to continue their education in colleges and universities while they waited for their legal immigration papers. The Mendota Project provided significant assistance to many people in my district who were struggling with immigration issues. Because of Miguel's leadership and dedication to the people of his community, the Mendota Project was an incredibly successful immigration education venture. His expertise on immigration policy was also apparent when, earlier this year, he counseled a summer intern in my office through the process of obtaining citizenship. Miguel's commitment to improving and assisting the immigrant community has not only been important to my office, but to the residents of the San Joaquin Valley.

I want to express my congratulations to Miguel as he reaches the culmination of a very long process that required a lot of hard work. Miguel has set a tremendous example for many of the immigrants he has helped while working in my office. Because of his hard work, determination, and community involvement, I have no doubt that he will continue to be an important role model in his community.

In conclusion, Mr. Speaker, I want to congratulate Miguel Arias today as he is sworn in as a citizen of the United States of America.

LOCKPORT HIGH SCHOOL/CLASS 8A STATE FOOTBALL CHAMPIONS

HON. JUDY BIGGERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mrs. BIGGERT. Mr. Speaker, I rise today in honor of Lockport High School's football team, the Porters. Under the leadership of head coach Bret Kooi, the Porters recently beat the Maine South High School Hawks, 48–27, to capture their second straight Class 8A state championship in football.

As any athlete will tell you, although it is hard to win one championship, it is a true test of greatness to come back and repeat as champion. All season the Porters have passed this test with flying colors, which is why I know the entire community is proud of Coach Kooi and the team.

In their drive for back-to-back championships, the team featured a high powered offense with one of the most prolific passing attacks in the history of Illinois High School Athletics.

Mr. Speaker, although this is a great accomplishment, it is just the newest chapter in Lockport High School's storied history. Over the years, teams from Lockport High School have won state championships in a number of sports including bowling and cross country.

But Lockport High School's successes are by no means confined to the athletic field. In the academic field, there's more good news. Since 2000, the number of students taking Advanced Placement courses has risen to 420, an increase of 60 percent. In addition, Lockport High School students scored well above the national average on the ACT exam, and last year, 91 percent of Lockport High School students went on to college.

Congratulations, Porters, for your many athletic and academic successes this year, last year, and over the years. Keep up the good work.

HONORING BARRY MCNUTT

HON. W.J. "BILLY" TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. TAUZIN. Mr. Speaker, we are on the verge of an historic moment in the 108th Congress as we move to pass a significant revision of our Nation's energy policy. But indeed, this is also a sad time for us and for everyone in the energy community. I have learned and announce with regret, the passing of Mr. Barry McNutt, a distinguished energy policy analyst and outstanding public servant who served at the United States Department of Energy since its inception. Many of us who have been close to energy policy issues over the years will recognize Barry's mark on this energy legislation because he was a strong advocate for increasing domestic energy supplies and improving energy efficiency. While we may have disagreed with Barry's analysis at times, we always respected it because we knew it was coming from a man with great intellectual gifts and unblemished integrity.

Barry McNutt was only interested in good policy not politics, but he recognized that good policy happens through the legislative process. He worked tirelessly to formulate policy options that informed and enlightened the process. He always knew his role as a Federal employee and he understood the important part he played in forming policy. Barry often told his colleagues that the most important thing is to produce solid analysis that will stand the test of time and he did that with talent and great care. Barry was 57 years old when he died on Sunday, November 16 at his home in Arlington, Virginia, after a long and courageous battle with cancer. He leaves behind a beloved wife Andrea and a brother, and many colleagues who will miss him, but he also leaves behind a legacy of outstanding public service that should inspire us all throughout our years of service to this country.

TRIBUTE TO DOLLY DEIBEL AND HER LEADERSHIP IN THE FIGHT AGAINST CANCER

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. HALL. Mr. Speaker, I rise today to pay tribute to an outstanding East Texan and ardent supporter of The University of Texas M.D. Anderson Cancer Center, Dolores M. ''Dolly'' Deibel of Tyler, Texas. Dolly has long been one of Tyler's philanthropic and civic leaders, and for the past two years, has chaired the ''Light up Tomorrow . . . for the Children'' benefit to raise funding and public awareness for the Pediatric Division at M.D. Anderson and the Children's Art Project. This year the event will be held on December 17 in Tyler.

Dolly has served as an Associate Member of the Membership Committee of The University Cancer Foundation Board of Visitors since September, 2000, and has been reappointed every year thereafter. Her efforts on behalf of M.D. Anderson are well-known, and the pediatric benefit has received strong community backing. This year the holiday gala enjoys the generous sponsorship of dozens of community leaders and supporters.

Mr. Speaker, I have a special appreciation for—and owe a debt of gratitude to—the dedicated staff and leadership at M.D. Anderson Cancer Center. Several years ago, my grandson Jay was stricken with cancer, and through the valiant efforts and superb treatment available at M.D. Anderson, Jay was one of those fortunate cancer patients who pulled through. I will be eternally grateful for the treatment that Jay and countless others have received there, and I appreciate Dolly's efforts in supporting the children of M.D. Anderson.

Dolly has been a longtime advocate in the fight to eradicate cancer. Last year, in recognition of her tireless efforts on behalf of The American Cancer Society over the past twenty-five years, the Deibel family joined with the American Cancer Society to name a room in her honor at the new building serving the Smith County Unit in Tyler. Over the years, Dolly has served the Smith County Unit of The American Cancer Society as Board member, public relations chairman, district chairman, committee member of Cattle Baron's Gala, Chili Rose Bowl and Great American Smokeout. She has served as a Board member of the State division of The American Cancer Society, including service on the Communications Committee, Great American Smokeout, Legislative Day at the Capital, and Women and Smoking Committee, among many other activities. She has received numerous awards for her many contributions.

Dolly also has been actively involved in countless philanthropic, civic, and political activities in Tyler, as so many look to her for leadership, inspiration, and support. She has devoted her time and talent to numerous causes, including the Women's Symphony League of Tyler, Tyler Rose Festival, Literacy Council of Tyler, Dallas Summer Musicals, Distinguished Lecture Series at The University of Texas at Tyler, Tyler Museum of Art, YMCA and other worthy organizations.

Dolly's vivacious, wonderfully engaging personality, her intelligence, her genuine compassion for others, and her willingness to work hard and to accomplish difficult tasks enable her to succeed in any cause or event that she tackles. Tyler and the State of Texas have benefitted greatly from her dedication to improving the lives of others, and she and her husband, John, are one of the dynamic couples in Tyler who are making a difference in their community. As we adjourn today, I want to commend Dolly Deibel for her extraordinary efforts on behalf of others, and in particular her support of the children of M.D. Anderson Cancer Center and the fight against cancer. Best wishes to all those who are supporting the ''Light up Tomorrow . . . for the Children'' benefit in Tyler on December 17—and may the light of Christmas shine upon this event. God bless.

DECLARATION OF PARTICIPANTS OF FIRST CONGRESS OF WORLD AND TRADITIONAL RELIGIONS

HON. JOSEPH R. PITTS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. PITTS. Mr. Speaker, I would like to submit for the CONGRESSIONAL RECORD the following Declaration of the Participants of the First Congress of World and Traditional Religions hosted in Kazakhstan earlier this fall. One of the most important aspects of this gathering was the emphasis on reconciliation and the final declaration recognizing the right of each individual to ''freely be convinced of, choose, express and practice his/her religion.'' Much of the tension in the world today is over the refusal of one group to allow another group or individual to peacefully practice his or her religious beliefs. I would like to commend President Nazarbayev for convening this important conference and I would like to commend all participants in the conference.

DECLARATION OF THE PARTICIPANTS OF THE FIRST CONGRESS OF WORLD AND TRADITIONAL RELIGIONS

We, the participants of the First Congress of World and Traditional Religions, held from 23 to 24 September 2003 in Astana, the capital of the Republic of Kazakhstan.

Recognizing the right of each human person to freely be convinced, choose, express, and practice his/her religion.

Considering inter-religious dialogue as one of the most important instruments for ensuring peace and harmony among peoples and nations.

Supporting the efforts of the United Nations, other relevant international and regional organizations, as well as Governments, civil societies and non-governmental organizations in the promotion of dialogue among civilizations.

Confirming the importance of religion for the well being of all mankind.

Condemning the misuse and misrepresentations of religions and the incorrect use of differences among religions as a means for achieving selfish, disruptive and violent goals.

Conscious of: The declining sense of respect for the sanctity of human life and the dignity of every human person.

The serious challenges posed to global stability by poverty, hunger, illiteracy, disease, immorality and lack of access to clean water and health care.

The recourse to oppression, cruelty and violence as the principle instruments for resolving disputes.

The ecological crisis in which the world finds itself, with grave consequences for present and future generations.

Declare: That the promotion of the values of Tolerance, Truth, Justice and Love must be the aim of any religious teaching.

That extremism, terrorism and other forms of violence in the name of religion have nothing to do with genuine understanding of religion, but are a threat to human life and hence should be rejected.

That the diversity of religious beliefs and practices should not lead to mutual suspicion, discrimination and humiliation but to a mutual acceptance and harmony demonstrating distinctive characteristics of each religion and culture

That religions must aspire towards greater co-operation, recognizing tolerance and mutual acceptance as essential instruments in the peaceful co-existence of all peoples.

That educational programs and the means of social communication should be essential instruments for promotion of positive attitudes towards religions and cultures.

That inter-religious dialogue is one of the key means for social development and the promotion of the well-being of all peoples, fostering tolerance, mutual understanding and harmony among different cultures and religions, and operating to bring an end to conflicts and violence.

That the entire human family must be encouraged to overcome hatred, enmity, intolerance and xenophobia.

We shall strengthen co-operation in promoting spiritual values and the culture of dialogue with the aim of ensuring peace in the new millennium.

We are ready to strain every effort not to allow the use of religious differences as an instrument of hatred and discord, in order to save mankind from a global conflict of religions and cultures.

We look forward to joint actions to ensure peace and progress for humanity and to foster the stability of societies as the basis for a harmonious world for the future.

We thank the Republic of Kazakhstan and his Excellency President Nursultan Nazarbayev for initiating and hosting this Congress.

May our commitments be blessed and all the peoples of the world be granted justice, peace and prosperity.

RESOLUTIONS OF THE FIRST CONGRESS OF WORLD AND TRADITIONAL RELIGIONS

The participants of the First Congress of World and National Religions, held from 23 to 24 September 2003 in Astana, the capital of the Republic of Kazakhstan.

Taking into consideration the fruitful exchange of views on the role of religions in promoting peace and harmony in the world.

Expressing common understanding on the need to continue constructive dialogue among representatives of the world's religions.

HAVE RESOLVED: To convene the Congress at least once every three years; To approve the following title of the Congress—''the Congress of World and Traditional Religions''; To request the Republic of Kazakhstan, as the initiator of the Congress, to elaborate all aspects related to the establishment of the Secretariat; To convene the Second Congress in Astana, the Republic of Kazakhstan.

INTRODUCTION OF THE FAIRNESS TO LOCAL CONTRACTORS ACT

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. CASE. Mr. Speaker, I rise today to introduce legislation to ensure that out-of-state Federal contractors doing business in the various States fully comply with local State laws.

For years, my home State of Hawaii has struggled to force out-of-state Federal contractors to pay local taxes. This issue became so serious in the mid-1990s that the State of Hawaii sued out-of-state Federal contractors for failing to pay State taxes, penalties, and interest ranging from $191,000 to $324,000. Noncompliance with State laws has become such an acute problem that the Hawaii Department of Taxation has joined with other State departments and members of the Hawai 'i congressional delegation to devise ways to make Federal contractors comply with State tax laws.

The bill I introduce today will solve this problem by requiring the Federal government to withhold from any Federal contractor doing business in any State the amount necessary to pay the State tax liability due under its contract, with the amount withheld paid directly to the State where the work is performed. The bill would also direct the Federal government to require a contractor to be licensed in the State in which a construction contract is to be performed.

Besides assuring prompt and full payment of State taxes, these requirements will also help ensure that out-of-state contractors follow the same set of rules and compete on equal footing for Federal contracts with local contractors. Ignoring State laws gives out-of-state contractors an unfair and illegal advantage over local contractors, who routinely face much stricter scrutiny to comply with their local laws and much stricter penalties for failing to do so.

This bill is modeled after legislation introduced by my predecessor, the late Congresswoman Patsy T. Mink, who understood that out-of-state contractors must fulfill their legal responsibilities wherever they conduct their business. By reintroducing an expanded and refined version of her earlier bill, I will continue her fight to help State governments police unethical contractors. I urge my colleagues to support this bill.

NATIONAL EDUCATION WEEK

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. RUSH. Mr. Speaker, today, I rise in recognition of the National Education Week that was celebrated during the week of November 17th through November 22, 2003. The theme was ''Great Public Schools for Every Child—America's Promise.'' Although we triumphantly celebrated American education during that time, we must acknowledge that we have failed to fulfill the promise of ensuring a quality education for every student, regardless of their socio-economic background. Mr. Speaker, there is an underlying problem with the nucleus of our public school system, and we cannot continue to band-aid these educational atrocities.

Mr. Speaker, over the past quarter of a century, the percentage of student dropout rates has stayed relatively unchanged. In fact, there are over 519,000 dropouts in America every year. Essentially, Mr. Speaker, America's dropout rates are the ''unintended consequences'' of our failure to invest the appropriate resources and programs in public school infrastructures.

When students drop out of school, there is a simultaneous spiral effect that leads to a host of troubling issues, such as teenage pregnancies, juvenile delinquencies, and even criminal activities. It is well-known that teenage girls who drop out of school are approximately 50 percent more likely to have a teenage pregnancy than girls who complete their high school education. Mr. Speaker, it is not a mystery to me, where the problem lies, when an estimated eight out of 10 prisoners are high school dropouts. These obvious correlations are not a matter of happenstance.

I believe we have a responsibility to remedy these issues through effective comprehensive programs in public education.

Mr. Speaker, this is the reason I am introducing the Vocational Opportunities and Instruction through Cooperative Education Act, also known as the VOICE Act of 2003. This bill would require the Secretary of Education to conduct a pilot study that would examine effective cooperative education programs in high schools across the nation.

The goal of my legislation is to promote alternative learning environments through school-to-work programs that have been proven to be a successful strategy in preventing high school dropouts. We know that cooperative education is an effective approach in reducing dropout rates. Mr. Speaker, School-to-Work programs, not only prevent dropout rates, but research also demonstrates that linking academic course work to career-related curriculum in the workplace, consistently increases student achievement.

My legislation would also create paid partnerships for students who participate in the program. This is an important piece of my legislation because when these students are paid, it reinforces our commitment to excellence through education while rewarding the efforts of the students. My bill, the VOICE Act of 2003, provides a win-win program for schools, community businesses and organizations, and most importantly the students. Students will benefit from this program because it creates an avenue for both high academic achievement and financial incentives. And the partnership between community businesses and organizations and the schools will assure highly skilled, motivated and experienced high school graduates, which is an investment for the future workforce.

Mr. Speaker, if America is serious about keeping our promise of providing great public schools for every child, then we must do everything in our power to integrate cooperative education programs into every public school classroom across this nation. It is my hope that all my colleagues will join me in the struggle to improve the quality of public education, by cosponsoring this much needed legislation.

DECEMBER SCHOOL OF THE MONTH, NEW YORK'S 4TH CONGRESSIONAL DISTRICT

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Ms. McCARTHY. Mr. Speaker, it's with great pride that I announce Franklin Elementary School in the Hempstead Union Free School District as School of the Month in the Fourth Congressional District for December 2003.

The Principal of Franklin Elementary School is John W. Moore. Regina Armstrong and Carolyn Townes-Richards are the Assistant Principals, and the Superintendent of Schools is Dr. Nathaniel Clay. Franklin Elementary School is the largest elementary school in the Village of Hempstead with over 750 students in grades Kindergarten through 5, and 115 dedicated staff members. The faculty work to fulfill the school's mission: To achieve a safe and secure educational environment that promotes working with parents and the community to ensure that all students reach and maintain high academic standards.

Despite various factors the students must overcome, they have shown, and maintained, academic progress in their pursuit to achieve and exceed the standards set by the school. The school's motto, ''Your choices determine your destiny.* * * Choose them wisely,'' puts the students'' future in their hands and they have succeeded. Through the rich and diverse cultural wisdom of its students and staff, Franklin Elementary School has distinguished itself as a community, county and a national resource. Recognized as a national school of excellence, Franklin Elementary School this year received from the Department of Education the National Blue Ribbon award. The honor is awarded annually to schools to acknowledge the achievements and hard work of the students, staff members, families and community.

Franklin Elementary School's band has been locally and nationally recognized and is regarded as one of the best elementary school bands in New York State. The band has participated in numerous community events resulting in its adoption by the Eastern Regional Federal Aviation Headquarters. The organization has given students mentorship, tours of its facilities, awards and career advice. It is a relationship benefiting both sides, which I hope will be maintained in the future.

Mr. Speaker, the faculty and students, of Franklin, along with the community, have created a wonderful learning environment. I am proud to name Franklin Elementary School the school of the month for December 2003.

HONORING RICHARD A. ELBRECHT

HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mrs. NAPOLITANO. Mr. Speaker, it is with great pride that I rise today to honor Richard A. Elbrecht on the occasion of his retirement from the California Department of Consumer Affairs, an agency with which Elbrecht has served the public since 1976. As the Supervising Attorney of the Legal Services Unit, he promoted and practiced the ideal that the law must be accessible to those whom it affects.

Mr. Elbrecht graduated from Yale University in 1955 with a degree in economics and a focus on money, banking and the antitrust law. He also attended the University of Michigan Law School and earned his J.D., 1960. Mr. Elbrecht worked for Legal Aid, the National Consumer Law Center and in private practice in San Jose and Santa Cruz.

But his greatest impact on the people of California was made during his years at the Department of Consumer Affairs where he constantly inspired his staff and co-workers through his intellect, enthusiasm and energy. He has created and maintained a work environment where excellence and innovation flourished. His unit provides a wide range of legal services, including legislative drafting, advocacy before administrative agencies, litigation and education. He has personally worked in a variety of areas of importance to consumers, including banking, electronic funds transfer, telecommunications, insurance, sales, warranties, credit and cable communications. He helped design and administer California's state quality awards program and has performed research on the application of computers and telecommunications to education.

Through this work, Elbrecht has achieved many extraordinary accomplishments on behalf of California's consumers. He drafted the 1991 and 1992 rewrites of the California Small Claims Act and supervised coordination of the Small Claims Court Experimental Project, which led to numerous significant improvements to the small claims court process. He fundamentally reformed practices for selling hearing aids through his representation in People and Director v. Beltone Electronics Corp. He assisted policy makers in developing regulations of interest rates in retail installment sales. He played a key role in the conceptualization and enactment of the California Lemon Law, the Song-Beverly Consumer Warranty Act and the Moore Universal Telephone Service Act.

I ask my colleagues to join me in thanking Richard A. Elbrecht for his many years of service to California's consumers. His advocacy and hard work will be greatly missed, and we wish him much happiness and contentment in his retirement.

ADMINISTRATION'S ATTEMPT TO BAN THERAPEUTIC CLONING WORLDWIDE

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. STARK. Mr. Speaker, I rise today to make clear to my colleagues how the current Bush Administration and their cadre of religious zealots are again attempting to impose their ideological views not just across our country, but across the world. The Administration, with the backing of the anti-abortion movement and several predominantly Catholic countries, is strongly lobbying members of the United Nations General Assembly to vote for a resolution to enact a worldwide ban on therapeutic cloning.

The Administration was not satisfied with their successful effort to cripple stem cell research in this country. Now, they want to use their considerable resources to destroy this promising research field throughout all United Nations member countries. And who will suffer if this effort is successful? People of all races, creeds, religions who suffer conditions as varied as Alzheimer's disease, Parkinson's disease, diabetes, chronic heart disease and spinal injuries. These are the individuals who have the most to lose if therapeutic cloning is banned.

The following is a statement released by Don Reed who is a constituent from Fremont, California. Don and his wife Gloria are tireless advocates of spinal cord research. Their interest in this area is passionate and very personal. Their son Roman was a star college football player until he was paralyzed by a game injury that broke his neck. Since the accident, Roman has been confined to a wheelchair. The Reeds are very much aware of the promise of therapeutic cloning and stem cell research to someday help their son, and many others, to live less restricted lives. This statement describes the efforts of the Administration at the United Nations and provides a poignant view of its effect on his spinal injured son.

WHITE HOUSE BEHIND CHRISTMAS ATTACK ON STEM CELL RESEARCH?

''This is like Scrooge putting Tiny Tim's doctor in jail,'' said stem cell activist Don C. Reed today, reacting to news that White House officials were part of a stealth campaign at the United Nations to internationally ban all forms of cloning with an up-or-down vote planned for December 8.

''My son is paralyzed with a spinal cord injury,'' said Reed. ''Therapeutic cloning for stem cells is our only realistic hope of cure: that he will one day stand up and walk. But the White House continually attacks that research, apparently because of the religious convictions of the President.''

As reported in Thursday's Financial Times of London, the Bush-backed Costa Rica plan would ban cloning everywhere. This would overturn the November 6 vote by the U.N.'s Legal Committee. By a razor-thin margin, (80–79, with 15 nations abstaining) that vote postponed a decision on the controversial therapy for two years.

''Mr. Bush did not like the way that vote turned out,'' said Reed. ''And he wants a new vote. Well, I did not like the way the 2000 Presidential election turned out, but I don't get to have that vote re-done. Millions of people will suffer, if the President can overturn the November 6th U.N. vote. That vote did not approve or disapprove therapeutic cloning. It only says, we should take time to make this important decision carefully. What's wrong with that?''

A more moderate measure, sponsored by Belgium and backed by the UK, would ban reproductive cloning but allow member nations to make their own decisions on therapeutic cloning for medical research. This is opposed by the President, the Catholic church, and anti-abortion organizations.

''The American Medical Association supports therapeutic cloning,'' says Reed. ''As does our own National Academy of Science.'' Exhaustive studies have been done on therapeutic cloning again and again, both nationally and in the state of California, as well as in countries like England, Israel, Singapore and China. All arrive at the same conclusion: reproductive cloning of children is dangerous to the unborn child, and should be banned; but therapeutic cloning of stem cells is potentially enormously valuable to cure hundreds of diseases and disabilities, and should be preserved.

''None of the stem cell lines approved by the White House can ever be used to help people,'' says Reed. ''Because all of those stem cells were fed on rat feeder layers, which not only brings the possibility of interspecies infection, but also disqualifies them for human use according to FDA guidelines. To individualize embryonic stem cells for human use, therapeutic cloning for cells is a must.''

''If therapeutic cloning is banned, embryonic stem cell research is effectively killed,'' said Reed, ''and my son is imprisoned in his wheelchair forever. This is not the sort of Christmas present one expects from the President of the United States.''

My fellow colleagues; advanced cellular research is a ray of hope for the Reeds and many others. And this hope is based in reality. According to the National Institutes of Health, therapeutic cloning and stem cell research has ''enormous'' potential to improve the lives of many. We should not interfere with this progress; we should embrace and support it. I ask you to join me and protest the efforts of the Bush administration at the United Nations to ban therapeutic cloning.

TRIBUTE TO MR. WILLIAM ''BILL'' HUGHES

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. DOOLITTLE. Mr. Speaker, today I wish to pay tribute to an outstanding citizen and a close friend, Mr. William ''Bill'' Hughes, from Citrus Heights, California. Well known for his dedication to family, faith, and community, Bill Hughes passed away unexpectedly on November 25, 2003, while visiting family in Utah for Thanksgiving. He was 55 years old. Though seemingly cut short, Bill's life was, nonetheless, filled with much experience, accomplishment, and success.

Very fittingly, Bill Hughes was born on the Fourth of July in Colorado Springs, Colorado in 1948. Raised on his parents' ranch, he grew up enjoying the outdoors and engaging in hard work. He could often be found on horseback, even as a small child. When the Hughes Family moved to the rural community of Orangevale in Sacramento County, California, Bill's interests grew to include flying small aircraft out of the old Phoenix Field.

After graduating from Bella Vista High School, Bill served as a missionary of the Church of Jesus Christ of Latter-Day Saints, ministering among the Spanish-speaking population of Southwest Texas. Upon his return home, he met and married the love of his life, Sarah. Together, they soon started a family and settled in Citrus Heights.

Having completed a Bachelor of Science degree in criminal science at California State University, Sacramento, Bill launched a three decade career in law enforcement. Following a two-year stint with the Federal Bureau of Investigation, he accepted a position with the Roseville Police Department. In his 28 years on the force, he helped found the SWAT team, spearheaded the implementation of neighborhood policing, and eventually rose to the rank of lieutenant. Strangely, he passed away exactly one year from the day he retired from the department.

Mr. Speaker, Bill also displayed great concern for the future of his own community by driving the move to incorporate the City of Citrus Heights. In fact, with the birth of the City of Citrus Heights in 1997, Bill Hughes was sworn in as its first mayor. During his seven years on the city council, including three as mayor, he spurred the creation of neighborhood associations, guided major economic development efforts, and improved local law enforcement. Due to his leadership, the city is well regarded as a responsive, user-friendly local government.

In his one year of retirement, Bill fulfilled personal goals such as climbing Mount Shasta and sailing the entire coast of California. He also elevated his civic involvement by taking on increased leadership roles in regional affairs. This year, he chaired the Sacramento Area Council of Governments and was the energy behind its Blueprint Project to direct regional transportation and land use planning,

Mr. Speaker, I wish to publicly thank you and the rest of our colleagues for appropriating funding this year to support this visionary project which will help the greater Sacramento region focus and direct its development according to community desires and principles of good planning.

Despite his involved professional and civic life, Bill actively fulfilled his church and family responsibilities. He is survived by his lovely wife Sarah, daughters Yolanda and Kymbra, sons Jarom, Jashon, Corom, and four grandchildren.

As an elected official, I appreciated Bill's hard work and professionalism. As his friend of over 20 years, I appreciated his sincerity and good nature. I join with his family, friends, colleagues, and constituents in celebrating his life and mourning his passing. We will surely miss him.

Rest in peace, Bill.

TRIBUTE TO MR. WILLIAM THOMAS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. PAYNE. Mr. Speaker, I rise today to recognize and offer my congratulations to a hero in my community, Mr. William Thomas. During this holiday season, we are lucky to have such a heartwarming reminder of the goodness within the human spirit.

As Mr. Thomas was riding to work with his wife, Jamelia, and two of their children, on East Hazelwood Avenue in Rahway, NJ, he saw a group of people gathered along the river's edge. Upon stopping, he observed a woman flailing in the water.

Disregarding his own safety, and not much of a swimmer himself, Mr. Thomas dove into the 50 degree water to rescue the drowning woman. Struggling to control the panicking, hysterical woman, he managed to pull her close enough to the shoreline for police officers to draw her from the river.

He then returned home to quickly shower and change clothes, setting out again on his drive to work at the Woodbridge Developmental Center in Avenel. He later discovered that the drowning woman also worked at this state-run residential facility for the mentally and physically impaired. They had never met.

Without a thought for his welfare, Mr. Thomas placed another human's life above his own. I am touched by his sacrifice and his service. I am honored by his presence in my community, and I ask you to join me as I salute Mr. Thomas and his outstanding display of compassion and bravery.

TRIBUTE TO BOB GRAHAM

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. DUNCAN. Mr. Speaker, sometimes ordinary people do extraordinary things. We do not have to be rich or famous to leave a positive and lasting legacy to this world.

Bob Graham, one of my constituents from Knoxville, TN, was one of those people. Mr. Graham was the long-time supervisor of athletic officials for the City of Knoxville and a long-time volunteer leader in our community.

Bob Graham loved children, and he gave tirelessly of himself to thousands of young people throughout his career. Many people remember him from his days as a youth baseball, football, and basketball coach. Everyone who knew him remembered him as a great leader and role model for our children. This Nation would be a much better place if there were more people here like Mr. Graham.

Bob Graham passed away following a lengthy illness on November 28th. He will be remembered fondly by his family and friends and the countless young people he helped through the years.

Mr. Speaker, I have attached a copy of a tribute to Mr. Graham that ran in the Knoxville News Sentinel that I would like to call to the attention of my colleagues and other readers of the RECORD.

HELPING KIDS WAS GRAHAM'S FOCUS UNTIL HIS DEATH

(By Chuck Cavalaris)

Rare is the occasion when just three words can sum up the essence of a person's life.

Such is the case with a great man like Bob Graham, who passed away Friday night.

His three words were all about, ''Helping the kids.''

Bob always had a handy explanation for those 14-hour days and frequent weekends at a ballpark.

''I just want to do whatever I can to help the kids,'' he said.

Anyone who had the privilege of knowing the supervisor of athletic officials for the city of Knoxville would agree: he is an all-time great in this regard.

This stocky, blue-eyed former lineman and kicker from Oliver Springs High School became a youth baseball, football and basketball coach (1956–1982) who helped thousands of kids. He also found time in the 1970s to be a TSSAA football referee and was a baseball scout for the St. Louis Cardinals.

To many people, Bob Graham was the tireless volunteer leader at Badgett Field. His passion led to a full-time job offer by former recreation department director Maynard Glenn. Talk about a great hire.

''Bob is probably the most-conscientious person I have ever known,'' said Norman Bragg, who worked with Graham for many years. ''Nowadays, you just don't replace someone like that. He did what he did without asking for a single thing in return—that was just Bob.''

Sure, he loved his children—all seven of them—and he was really proud of his grandkids. But he also cared deeply about

the scruffy, undersized youngsters who didn't even know how to hold a softball bat or throw a baseball. He took great delight in working with these children and watching their self-esteem grow. That was Bob Graham.

''Dad just wanted all kids to have the opportunities in sports that he might not have had growing up,'' said his son, Mark. ''He loved doing that. I think he would rather be at the ballpark than anywhere else. It was his second home.''

Graham, who was 69, was instrumental in the planning, design and construction of the award-winning Caswell Park softball complex off Winona Avenue.

He died at St. Mary's Hospice in Halls and had a rare brain disease called Creutzfeldt-Jacob (pronounced kroitsfelt-yakob). There is no known cure for CJD, which strikes approximately one in a million people worldwide between the ages of 55 and 75.

The family received the diagnosis less than eight weeks ago, which left time to say goodbye. Considering the circumstances, they were thankful he did not suffer. He passed away quietly, just after speaking with close friend Willie Anderson.

''My mother (Judy) was holding dad's hand,'' Jeff Graham said. ''She was saying, 'I love you, Bob I love you, Bob' when he took his last breath. I think he held on just a little bit longer to make sure everyone had the chance to say goodbye.''

Graveside services are set for 11 a.m. today at Woodhaven Memory Gardens.

Bob Graham had a positive, uplifting impact on more lives than he possibly could have known. We love you, Bob. Many of us will never really and truly say goodbye.

Donations can be sent to Beaver Ridge United Methodist (Family Life Center), P.O. Box 7007, Knoxville, TN., 37921 or The Fellowship of Christian Athletes Bob Graham Memorial Scholarship Fund, 406 Union Ave., Knoxville, TN. 37902.

INTRODUCTION OF THE WESTERN WATERS AND SURFACE OWNERS PROTECTION ACT

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. UDALL of Colorado. Mr. Speaker, today I am joining with my colleague from New Mexico, Representative TOM UDALL, in introducing the Western Waters and Surface Owners Protection Act.

The western United States is blessed with significant energy resources. In appropriate places, an under appropriate conditions, they can and should be developed for the benefit of our country. But it's important to recognize the importance of other resources—particularly water—and other uses of the lands involved—and our bill responds to this need. It has three primary purposes. The first is to assure that the development of those energy resources in the West will not mean destruction of precious water resources. The second is to reduce potential conflicts between development of energy resources and the interests and concerns of those who own the surface estate in affected lands. And the third is to provide for appropriate reclamation of affected lands.

Water Quality Protection

One new energy resource is receiving great attention. Gas associated with coal deposits, often referred to as coalbed methane. An October 2000 United States Geological Survey report estimated that the U.S. may contain more than 700 trillion cubic feet (tcf) of coalbed methane and that more than 100 tcf of this may be recoverable using existing technology. In part because of the availability of these reserves and because of tax incentives to exploit them, the West has seen a significant increase in the development of this gas.

Development of coalbed methane usually involves the extraction of water from underground strata. Some of this extracted water is reinjected into the ground, while some is retained in surface holding ponds or released on the surface and allowed to flow into streams or other water bodies, including ditches used for irrigation.

The quality of the extracted waters varies from one location to another. Some are of good quality, but often they contain dissolved minerals (such as sodium, magnesium, arsenic, or selenium) that can contaminate other waters—something that can happen because of leaks or leaching from holding ponds or because the extracted waters are simply discharged into a stream or other body of water. In addition, extracted waters often have other characteristics, such as high acidity and temperature, which can adversely affect agricultural uses of land or the quality of the environment.

In Colorado and New Mexico and other states in the arid West, water is scarce and precious. So, as we work to develop our domestic energy resources, it is vital that we safeguard our water and we believe that clear requirements for proper disposal of these extracted waters are necessary in order to avoid some of these adverse effects. That is the purpose of the first part of our bill.

Our bill (in Title I) includes two requirements regarding extracted water.

First, it would make clear that water extracted from oil and gas development must comply with relevant and applicable discharge permits under the Clean Water Act. Lawsuits have been filed in some western states regarding whether or not these discharge permits are required for coalbed methane development. Our bill would require oil and gas development to secure permits if necessary and required, like any other entity that may discharge contaminates into the waters of the United States.

Second, the bill would require those who develop federal oil or gas—including coalbed methane—under the Mineral Leasing Act to do what is necessary to make sure their activities do not harm water resources. Under this legislation, oil or gas operations that damage a water resource—by contaminating it, reducing it, or interrupting it—would be required to provide replacement water. For water produced in connection with oil or gas drilling that is injected back into the ground, the bill requires that this must be done in a way that will not reduce the quality of any aquifer. For water that is not reinjected, the bill requires that it must be dealt with in ways that comply with all Federal and State requirements.

And, because water is so important, our bill requires oil and gas operators to make the protection of water part of their plans from the very beginning, requiring applications for oil or gas leases to include details of ways in which operators will protect water quality and quantity and the rights of water users.

These are not onerous requirements, but they are very important—particularly with the great increase in drilling for coalbed methane and other energy resources in Colorado, Wyoming, Montana, and other western States.

Surface Owner Protection

In many parts of the country, the party that owns the surface of some land does not necessarily own the minerals beneath those lands. In the West, mineral estates often belong to the Federal Government while the surface estates are owned by private interests, who typically use the land for farming and ranching.

This split-estate situation can lead to conflicts. And while we support development of energy resources where appropriate, we also believe that this must be done responsibly and in a way that demonstrates respect for the environment and overlying landowners.

The second part of our bill (Title II) is intended to promote that approach, by establishing a system for development of Federal oil and gas in split-estate situations that resembles—but is not identical to—the system for development of federally-owned coal in similar situations.

Under Federal law, the leasing of federally owned coal resources on lands where the surface estate is not owned by the United States is subject to the consent of the surface estate owners. But neither this consent requirement nor the operating and bonding requirements applicable to development of federally owned locatable minerals applies to the leasing or development of oil or gas in similar split-estate situations:

We believe that there should be similar respect for the rights and interests of surface estate owners affected by development of oil and gas and that this should be done by providing clear and adequate standards and increasing the involvement of these owners in plans for oil and gas development.

Accordingly, our bill requires the Interior Department to give surface owners advance notice of lease sales that would affect their lands and to notify them of subsequent events related to proposed or ongoing developments related to such leases.

In addition, the bill requires that anyone proposing the drill for Federal minerals in a split-estate situation must first try to reach an agreement with the surface owner that spells out what will be done to minimize interference with the surface owner's use and enjoyment and to provide for reclamation of affected lands and compensation for any damages.

We think that most energy companies want to avoid harming the surface owners, so we expect that it will usually be possible for them to reach such agreements. However, we recognize that this may not always be the case and the bill includes two provisions that address this possibility: (1) if no agreement is reached within 90 days, the bill requires that the matter be referred to neutral arbitration; and (2) the bill provides that if even arbitration fails to resolve differences, the energy development can go forward, subject to Interior Department regulations that will balance the energy development with the interests of the surface owner or owners.

As I mentioned, these provisions are patterned on the current law dealing with development of federally-owned coal in split-estate situations. However, it is important to note one

major difference—namely, while current law allows a surface owner to effectively veto development of coal resources, under our bill a surface owner ultimately could not block development of oil or gas underlying his or her lands. This difference reflects our belief that appropriate development of oil and natural gas is needed.

Reclamation Requirements

The bill's third part (Titles III and IV) addresses reclamation of affected lands.

Title III would amend the Mineral Leasing Act by adding an explicit requirement that parties that produced oil or gas (including coalbed methane) under a Federal lease must restore the affected land so it will be able to support the uses it could support before the energy development. Toward that end, this part of the bill requires development of reclamation plans and posting of reclamation bonds. In addition, so Congress can consider whether changes are needed, the bill requires the General Accounting Office to review how these requirements are being implemented and how well they are working.

And, finally, Title IV would require the Interior Department to: (1) establish, in cooperation with the Agriculture Department, a program for reclamation and closure of abandoned oil or gas wells located on lands managed by an Interior Department agency or the Forest Service or drilled for development of Federal oil or gas in split-estate situations; and (2) establish, in consultation with the Energy Department, a program to provide technical assistance to State an tribal governments that are working to correct environmental problems cased by abandoned wells on other lands. The bill would authorize annual appropriations of $5 million in fiscal 2005 and 2006 for the Federal program and annual appropriations of $5 million in fiscal 2005, 2006, and 2007 for the program of assistance to the States and tribes.

Mr. Speaker, our country is overly dependent on a single energy source—fossil fuels—to the detriment of our environment, our national security, and our economy. To lessen this dependence and to protect our environment, we need to diversity our energy portfolio and increase the contributions of alternative energy sources to our energy mix. However, for the foreseeable future, petroleum and natural gas (including coalbed methane) will remain important parts of a diversified energy portfolio and we support their development in appropriate areas and in responsible ways. We believe this legislation can move us closer toward this goal by establishing some clear, reasonable rules that will provide greater assurance and certainty for all concerned, including the energy industry and the residents of Colorado, New Mexico, and other Western States. Here is a brief outline of its major provisions:

OUTLINE OF BILL

SECTION ONE—This section provides a short title (''Western Waters and Surface Owners Protection Act''), makes several findings about the need for the legislation, and states the bill's purpose, which is ''to provide for the protection of water resources and surface estate owners in the development of oil and gas resources, including coalbed methane.''

TITLE I—This title deals with the protection of water resources. It includes three sections:

Section 101 amends current law to specify that an operator producing oil or gas under a Federal lease must: (1) replace a water supply that is contaminated or interrupted by drilling operations; (2) assure any reinjected water goes only to the same aquifer from which it was extracted or an aquifer of no better water quality; and (3) to develop a proposed water management plan before obtaining a lease

Section 102 amends current law to make clear that extraction of water in connection with development of oil or gas (including coalbed methane) is subject to an appropriate permit and requirement to minimize adverse effects on affected lands or waters.

Section 103 provides that nothing in the bill will: (1) affect any State's right or jurisdiction with respect to water; or (2) limit, alter, modify, or amend any interstate compact or judicial rulings that apportion water among and between different States.

Title II—This title deals with the protection of surface owners. It includes four sections:

Section 201 provides definitions for several terms used in Title II.

Section 202 requires a party seeking to develop federal oil or gas in a split-estate situation to first seek to reach an agreement with the surface owner or owners that spells out how the energy development will be carried out, how the affected lands will be reclaimed, and that compensation will be made for damages. It provides that if no such agreement is reached within 90 days after the start of negotiations the matter will be referred to arbitration by a neutral party identified by the Interior Department.

Section 203 provides that if no agreement under section 202 is reached within 90 days after going to arbitration, the Interior Department can permit energy development to proceed under an approved plan of operations and posting of an adequate bond. This section also requires the Interior Department to provide surface owners with an opportunity to comment on proposed plans of operations, participate in decisions regarding the amount of the bonds that will be required, and to participate in on-site inspections if the surface owners have reason to believe that plans of operations are not being followed. In addition, this section allows surface owners to petition the Interior Department for payments under bonds to compensate for damages and authorizes the Interior Department to release bonds after the energy development is completed and any damages have been compensated.

Section 204 requires the Interior Department to notify surface owners about lease sales and subsequent decisions involving federal oil or gas resources in their lands.

Title III—This title amends current law to require parties producing oil or gas under a Federal lease to restore affected lands and to post bonds to cover reclamation costs. It also requires the GAO to review Interior Department implementation of this part of the bill and to report to Congress about the results of that review and any recommendations for legislative or administrative changes that would improve matters.

Title IV—This title deals with abandoned oil or gas wells. It includes three sections:

Section 401 defines the wells that would be covered by the title.

Section 402 requires the Interior Department, in cooperation with the Department of Agriculture, to establish a program for reclamation and closure of abandoned wells on federal lands or that were drilled for development of federally-owned minerals in split-estate situations. It authorizes appropriations of $5 million in fiscal years 2005 and 2006.

Section 403 requires the Interior Department, in consultation with the Energy Department, to establish a program to assist states and tribes to remedy environmental problems caused by abandoned oil or gas wells on non-federal and Indian lands. It authorizes appropriations of $5 million in fiscal years 2005, 2006, and 2007.

IN HONOR OF C. BOOTH WALLENTINE

HON. JIM MATHESON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. MATHESON. Mr. Speaker, I rise today to recognize and pay tribute to Mr. C. Booth Wallentine of Utah on the occasion of his retirement from the Utah Farm Bureau Federation.

Booth has spent 41 years working for the Utah and Iowa Farm Bureaus, the last 31 of those years he has served as the Utah Farm Bureau Federation's CEO.

I first heard about Booth's efforts on behalf of our state's agricultural interests when he worked with my father when he served as governor of Utah. I have been privileged to have the same opportunity to work with Booth, and he has been an invaluable asset to me in learning about Utah's agriculture industry.

Since being elected to Congress, I have been impressed with Booth's tireless efforts to advocate on behalf of agriculture and rural issues. His work and dedication on behalf of Utah's farmers and ranchers has made a real difference across the state of Utah, and we all owe him a debt of gratitude for championing these issues on behalf of our state. He has been involved in so many efforts over the years, and it is difficult to imagine discussions about agriculture policy in Utah without Booth's participation.

I wish Booth and his family well in his retirement. I know he will continue to be involved in public service, and I look forward to working with him on his future endeavors.

DOCUMENTS REVEAL DECEPTIVE PRACTICES BY ABORTION LOBBY

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. SMITH of New Jersey. Mr. Speaker, today, I submit to theRECORD documents that reveal deceptive practices used by the abortion lobby. It is critical that both the American and foreign public are made aware of these documents because they shed new light on the schemes of those who want to promote abortion here and abroad. It is especially important that policy makers know, and more fully understand, the deceptive practices being employed by the abortion lobby. These documents are from recent Center for Reproductive Rights (CRR) strategy sessions where, according to a quote from a related interview session, one of CRR's Trustees said, ''We have to fight harder, be a little dirtier.'' These documents are important for the public to see because they expose the wolf donning sheep's clothing in an attempt to sanitize violence against children. These papers reveal a Trojan Horse of deceit. They show a plan to

"be a little dirtier." In their own words, these documents demonstrate how abortion promotion groups are planning to push abortion here and abroad, not by direct argument, but by twisting words and definitions. In discussing legal strategies to legalize abortion internationally they go as far as to say, ". . . there is a stealth quality to the work: we are achieving incremental recognition of values without a huge amount of scrutiny from the opposition. These lower profile victories will gradually put us in a strong position to assert a broad consensus around our assertions." People should know about this stealth campaign, and that is why I submit these documents unedited and for public review.

INTERNATIONAL LEGAL PROGRAM SUMMARY OF STRATEGIC PLANNING THROUGH OCTOBER 31, 2003

Staff lawyers in the International Legal Program, (ILP) have met three times with Nancy Northup, Nancy Raybin and Elizabeth Lowell (September 3, September 23, and October 16) to discuss our strategic direction. In the periods between those meetings, ILP staff met and worked on the memos attached hereto, as well as two other working memos.

We have stepped back and considered the types of strategic legal work the ILP has worked on to date, examining in particular how we evaluate or measure our effectiveness. We reflected on our key accomplishments, and the constant challenge of being in far higher demand than we have resources. This led us to discuss and further develop the ILP's "theory of change." (See Memo 2.) What is our overarching programmatic objective and what should that mean in terms of hard choices on how to focus our work in the next 3–5 years? We have made some solid progress in answering that question, as outlined below:

The ILP's overarching goal is to ensure that governments worldwide guarantee reproductive rights out of an understanding that they are legally bound to do so.

We see two principal prerequisites for achieving this goal:

(1) Strengthening international reproductive rights norms.

Norms refer to legal standards. The strongest existing international legal norms relevant to reproductive rights are found in multilateral human rights treaties. Based on our view of what reproductive rights should mean for humankind, the existing human rights treaties are not perfect. For example, at least four substantive areas of reproductive rights illustrate the limits of international reproductive rights norms in protecting women: (a) abortion; (b) adolescents access to reproductive health care; (c) HIV/AIDS; and (d) child marriage. One strategic goal could be to work for the adoption of a new multilateral treaty (or addendum to an existing treaty) protecting reproductive rights. The other principal option is to develop "soft norms" or jurisprudence (decisions or interpretations) to guide states' compliance with binding norms. Turning back to the four substantive areas noted above, in all four cases, it is possible to secure favorable interpretations. Indeed, the Center has begun to do so. (For an in-depth discussion of this, see Memo 1.)

In theory, existing international norms are broad enough to be interpreted so as to provide women with adequate legal protections. Therefore, we are in agreement on the need to work in a systematic way on strengthening interpretations and applications of the existing norms. If, at the end of 2007. we determine that the existing norms are proving inadequate (as evidenced by the interpretations we seek), then we would reconsider whether to undertake a concerted effort to secure a new international treaty or addendum to address this gap. We would supplement our own conclusions by convening a conference or expert group to consider whether it would be strategic to pursue such an effort.

(2) Consistent and effective action on the part of civil society and the international community to enforce these norms.

This action follows from the premise that the best way to test existing international reproductive rights norms is to make governments accountable for them. In other words, to work for their enforcement or implementation. would seek to do this by: (a) developing activities aimed at enforcement of international protections of reproductive rights in regional and international fora; and (b) working for the adoption and implementation of appropriate national-level norms.

The regional and international fora with a quasi-judicial character arguably offer the most promising venues for securing justice and interpretations that actually change governments' behavior. To date, we have used the Inter-American Commission on Human Rights (three cases, one pending) and the UN Human Rights Committee (which oversees compliance with the International Covenant on Civil and Political Rights) (one case pending). We believe that seeking favorable interpretations from the "quasi judicial mechanisms of the European human rights system, the African system, and other UN individual complaint mechanisms will be particularly important in the next 3–5 years.

Ultimately, underlying the goal of strengthening international norms and enforcement is that of ensuring that appropriate legal norms are in place at the national level so as to improve women's health and lives. Working on the above prerequisites can help bring about national-level normative changes (since one key way for governments to comply with international norms is to improve national norms). But these processes are not linear and the adoption of appropriate national-level norms may be feasible first (without advocates' emphasis on governments' obligation to apply international norms). Such new national-level norms can, in turn, influence and strengthen international standards. Our goal above is reached only when governments in fact guarantee women's reproductive rights; first by adopting appropriate laws and policies, and, second, by adequately implementing them.

We have begun the process of considering what the above theory of change means for our work: It will mean concentrating on securing strong interpretations the strength of international reproductive rights norms. But the work suggested by the discussion above is still greater than our resources. We must think in terms of working in a concerted way on certain reproductive rights is issues; in a smaller number of focus countries; and on honing our ability to provide cutting edge input on relevant international and regional norms and on providing a comparative legal perspective. (i.e., analysis of laws and judicial decisions across countries).

MEMO #1—INTERNATIONAL REPRODUCTIVE RIGHTS NORMS: CURRENT ASSESSMENT

Our goal is to see governments worldwide guarantee women's reproductive rights out of recognition that they are bound to do so. An essential precondition is the existence of international legal norms that encompass reproductive rights and guarantee them the broadest possible protection. Our task, therefore, is to consider the current content of international law relating to reproductive rights and assess its adequacy for guiding government decision-making and holding governments accountable for violations of international norms.

This memo provides an overview of the sources of international law that may be invoked to protect reproductive rights, examining both binding treaty provisions (hard norms) and the many interpretative and non-binding statements that contribute to an understanding of reproductive rights (soft norms). It examines four substantive areas that illustrate the limits of international law in protecting reproductive rights: (a) abortion, (b) adolescents' access to reproductive health care, (c) HIV/AIDS, and (d) child marriage. The memo then considers whether, given existing support for reproductive rights in international law, reproductive rights activists should seek new protective norms or whether our efforts would be better spent seeking stronger mechanisms for enforcement of existing norms. Assuming that our goal is to pursue the development of international norms, there are several approaches we could take:

Develop a jurisprudence of existing norms that guides states' compliance with binding norms;

Strategically work toward developing customary norms; and

Work to create another binding instrument, such as an international treaty or a protocol to an existing treaty.

I. The foundations of reproductive rights in international law

By way of introduction, international human rights law is grounded in both "hard" and "soft" norms. Legally binding or "hard" norms are norms codified in binding treaties such as the International Covenant on Civil and Political Rights (ICCPR) or the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). As a result of the hard-fought efforts of human rights activists, hard norms have gradually been extended to more and more of the human family, including ethnic and racial minorities, women, children, and refugees and internally displaced people.

Supplementing these binding treaty-based standards and often contributing to the development of future hard norms are a variety of "soft norms." These norms result from interpretations of human rights treaty committees, rulings of international tribunals, resolutions of inter-governmental political bodies, agreed conclusions in international conferences and reports of special rapporteurs. (Sources of soft norms include: the European Court of Human Rights, the CEDAW Committee, provisions from the Platform for Action of the Beijing Fourth World Conference on Women, and reports from the Special Rapporteur on the Right to Health.)

Reproductive rights advocates, including the Center, have found guarantees of women's right to reproductive health and self-determination in longstanding and hard international norms, relying on such instruments as the Universal Declaration on Human Rights (Universal Declaration), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This approach received international affirmation (in a soft norm) at the International Conference on Population and Development (ICPD) in the conference's Programme of Action. Paragraph 7.3 of that document states:

"[R]eproductive rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the

basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents.''

We and others have grounded reproductive rights in a number of recognized human rights, including: the right to life, liberty, and security; the right to health, reproductive health, and family planning; the right to decide the number and spacing of children; the right to consent to marriage and to equality in marriage; the right to privacy; the right to be free from discrimination on specified grounds; the right to modify traditions or customs that violate women's rights; the right not to be subjected to torture or other cruel, inhuman, or degrading treatment or punishment; the right to be free from sexual violence; and the right to enjoy scientific progress and to consent to experimentation.

Our publications feature legal arguments resting on these broad principles, many of which have been well received by treaty monitoring bodies and other authoritative U.N. bodies. Still, there are some arguments that could be considerably strengthened with legal norms that relate more specifically to reproductive matters. The next section will briefly discuss four areas in which international law provides less protection than desired.

II. Gaps in existing norms

A. Abortion

We have been leaders in bringing arguments for a woman's right to choose abortion within the rubric of international human rights. However, there is no binding hard norm that recognizes women's right to terminate a pregnancy. To argue that such a right exists, we have focused on interpretations of three categories of hard norms: the rights to life and health; the right to be free from discrimination; those rights that protect individual decision-making on private matters.

Bolstered by numerous soft norms, the assertion with widest international acceptance is that a woman's right to be free from unsafe abortion is grounded in her rights to life and health. The right to life has been interpreted to require governments to take action to preserve life. The right to health guarantees the highest attainable level of physical and mental health. Because unsafe abortion is responsible for 78,000 deaths each year and hundreds of thousands of disabilities, criminalization of abortion clearly harms women's life and health. The international community has recognized the dangers of unsafe abortion. Statements to that effect were adopted at the International Conference on Population and Development in Cairo (1994) and the Beijing Fourth World Conference on Women (1995), as well as the recent 5-year reviews of these conferences.

While this has been an important stride, the global community has fallen short of recognizing a right to independent decision-making in abortion, providing us with relatively few soft norms. We argue that the right to make decisions about one's body is rooted in the right to physical integrity, which has been interpreted to protect against unwanted invasions of one's body. We assert that the right to privacy protects a woman's right to make decisions about her reproductive capacity. We also rely on the right to determine the number and spacing of one's children. Here, the soft norms arguably work against us, particularly given the phrase repeated in both the Cairo and Beijing documents affirming that under no circumstances should abortion be considered a method of family planning.

We have also grounded our arguments in the right to be free from gender discrimination, which is protected in every major human rights instrument. Because restrictive abortion laws deny access to health care that only women need, they constitute discrimination in access to health care. This position is supported somewhat obliquely in a CEDAW general recommendation. In addition, we argue that by denying women the means to control their own fertility, restrictive abortion laws interfere with women's ability to enjoy opportunities in other sectors of society, including educational and professional opportunities. No soft norms affirm this argument.

B. Adolescents—Access to Reproductive Health Services and Information

The Center has taken a leading role in pressing for protection of adolescents' right to access reproductive and sexual health information and services. In creating a human rights framework for such rights, we use the same hard norms that form the foundation for non-adolescent women's right to access reproductive health services. However, the challenge is to assert that the hard norms apply to adolescents under age 18. We rely almost exclusively on soft norms to do this since none of the treaties explicitly discuss adolescents' reproductive rights.

Rights Relating to the Right to Reproductive Health

The right to health (including family planning services and education);

The right to life; and

The rights to education and information.

With respect to the first cluster of rights, the hard norms relating to women's right to access reproductive health services and information are well established and accepted. However, there is no hard norm specifically stating that these provisions also protect adolescents' right to access reproductive health services and information. There is one important, and somewhat ambiguous exception. A recent interpretation suggests the provision on the right to health, which asks states parties to develop family planning services and education, applies to children/adolescents.

Rights Relating to Reproductive Decision Making/Autonomy

Right to privacy;

Right to plan the number and spacing of one's children; and

Rights to liberty and security of person.

In issues relating to adolescents' reproductive autonomy and decision-making, there are even fewer hard norms and it is even more difficult to say that these hard norms apply to adolescents under the age of 18 and their reproductive decision-making. For example, the Children's Rights Convention (CRR) provisions on the right to privacy are problematic, prohibiting ''arbitrary or unlawful interference with his or her privacy.'' The provision is not explicit that the right applies to health services and the use of ''unlawful'' could imply that only interferences that contravene national law would be prohibited. There are no hard norms on: (1) confidentiality in provision of health services or information; (2) prohibiting parental consent requirements and (3) third party authorization for access to reproductive health services and information.

The Right To Be Free From Discrimination

While there are hard norms prohibiting sex discrimination that apply to girl adolescents, these are problematic since they must be applied to a substantive right (i.e., the right to health) and the substantive reproductive rights of adolescents are not 'hard' (yet!). There are no hard norms on age discrimination that would protect adolescents' ability to exercise their rights to reproductive health, sexual education, or reproductive decisionmaking. In addition, there are no hard norms prohibiting discrimination based on marital status, which is often an issue with respect to unmarried adolescents' access to reproductive health services and information.

The soft norms support the idea that the hard norms apply to adolescents under 18. They also fill in the substantive gaps in the hard norms with respect to reproductive health services and information as well as adolescents' reproductive autonomy. Two important standards are applied in order to fill in the gaps:

The ''Evolving Capacity of the Child'' standard, which limits parental control to the extent that children take on more autonomy as their capacities grow. (e.g., An adolescent who is sexually active and is taking the initiative to seek out means to protect herself from STIs and unwanted pregnancy is demonstrating a level of maturity to justify access.)

The ''Best Interest of the Child'' standard, which mandates that in the context of health, parental involvement that prevents adolescents from accessing potentially life-saving information and services is NOT in the child's best interest. Rather, it is in the best interest of adolescents to have access to the means to protect themselves. It is often in the best interest of the child to be granted autonomy in decision-making.

Soft Norms Relating to the right to Reproductive Health

The Treaty Monitoring Bodies (TMBs) have explicitly interpreted adolescents' right to health as including the right to access services and information on reproductive health. In addition, they have called for sexual education in the context of the rights to education and information. Both the International Conference on Population and Development (ICPD) and the Beijing Platform for Action (Beijing PFA) further help to fill in the gaps in this cluster of substantive rights, clearly stating that these rights apply to adolescents.

Soft norms relating to the right to reproductive autonomy/decision-making

Soft norms supplement the dearth of hard norms. The TMBs have interpreted adolescents' right to privacy as ensuring a right to confidentiality in reproductive health services as well as the right to access services and information without parental consent.

Soft norms relating to the right to be free from discrimination

There are no explicit soft norms on the right to be free from discrimination based on age in the context of adolescents' reproductive rights. There are soft norms relating to the age of marriage, which would impact adolescents' ability to access services since in many countries married adolescents are granted access regardless of their age while unmarried adolescents are effectively denied access. This relates closely to soft norms on discrimination based on marital status. In this regard, the TMBs General Recommendations/Comments and Concluding Observations have explicitly condemned discrimination based on marital status in accessing reproductive health services.

C. HIV/AIDS

The rights of women implicated by HIV/AIDS include: the rights to life, dignity, liberty, and security of the person, freedom from inhuman and degrading treatment, nondiscrimination and equality before the

law, the right to health, including reproductive health care and reproductive self-determination. There are no hard norms in international human rights law that directly address HIV/AIDS directly.

At the same time, a number of human rights bodies have developed soft norms to secure rights that are rendered vulnerable by the HIV/AIDS epidemic. In 1998, the Office of the U.N. High Commissioner for Human Rights and UNAIDS issued ''HIV/AIDS and Human Rights: International Guidelines,'' which provide a roadmap for governments seeking to incorporate human rights protections related to HIV/AIDS into national law. In June 2001, the U.N. General Assembly Special Session (UNGASS) on HIV/AIDS resulted in a Declaration of Commitment on HIV/AIDS that included strong language on the need to integrate the rights of women and girls into the global struggle against HIV/AIDS.

In addition, the TMB's have interpreted existing treaties in the context of HIV/AIDS and reproductive rights, creating new and positive jurisprudence that safeguards women's reproductive rights.

In the national-level courts, the South African. Constitutional Court interpreted the ICESCR Covenant progressively to enforce the right to HIV/AIDS prevention and treatment in a case brought against the government by the Treatment Action Campaign (an HIV/AIDS rights NGO) seeking to compel the government of South Africa to provide Nevirapine to pregnant women and their babies, to prevent the transmission of HIV from mother to child.

Practices with implications for women's reproductive rights in relation to HIV/AIDS are still not fully covered under existing international law, although soft norms have addressed them to some extent. Two of these include: (1) denials of the right to consent to HIV/AIDS testing of pregnant women and (2) the presumption of consent to sex in marriage.

1. Pregnant women's consent to HIV/AIDS testing

There is a lack of explicit prohibition of mandatory testing of HIV-positive pregnant women under international law. General international law provisions relating to consent or refusal to consent to medical treatment under the ICCPR (article 15.1) and the ICESCR (article 7) has been applied.

The legal and ethical foundations for HIV testing broadly require respect for the conditions for informed consent, pre- and post-test counseling and confidentiality. But on many occasions in practice, HIV positive pregnant women are subjected to mandatory routine tests, without adequate counseling. These mandatory tests often owe their justification to public health demands to curb transmission of the HIV virus to their offspring.

HIV testing that is conducted without pre- and post-test counseling violates a woman's rights to autonomy, dignity, privacy and bodily and psychological integrity. The same degree of consent pre- and post-test counseling and confidentiality applicable to every other person undergoing an HIV test should apply equally to a pregnant woman.

Among the most persuasive ''soft norms'' are the UNAIDS Guidelines on HIV/AIDS and Human Rights, which call for international human rights norms to be translated into practical observance in the context of HIV/AIDS, point out that programs emphasizing coercive measures directed towards the risk of transmitting HIV to the fetus, such as mandatory pre- and post-natal testing, seldom prevent perinatal transmission of HIV/AIDS, because they overlook. the health needs of women. In its policy statement on HIV testing and counseling, UNAIDS states that pregnant women should not be coerced into testing nor be tested without their consent. But these guidelines do not carry the force of law as would be the case if language prohibiting mandatory HIV testing of pregnant women were included in an existing treaty.

2. Presumption of consent to sex within marriage

Human rights law should explicitly address the legal and social subordination women face within their families, marriages, communities and societies, especially as these barriers expose women to the risk of HIV infection. International protections for the right of women to autonomy over their sexuality within or outside marriage can be found in the principle of bodily integrity enumerated in the ICCPR, which provides for the right to liberty and security of the person. However, with the challenges provided by HIV/AIDS, it is necessary to institute stronger protections of the rights of women in the family, especially their rights to autonomy over sexuality and reproduction. Some stronger language on women's rights in the context of HIV/AIDS is found in soft norms, including the recent UNAIDS guidelines on HIV/AIDS and human rights. In addition, both the ICPD Programme of Action and the Beijing PFA reflect an international consensus recognizing the inalienable nature of sexual rights. Paragraph 96 of the Fourth World Conference on Women Platform.for Action states, ''The human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence.'' Again, these rights are much more clearly articulated as a matter of progressive interpretation and jurisprudence than as hard norms in themselves.

D. Child Marriage (Marriage Under Age 18)

None of the global human rights treaties explicitly prohibit child marriage and no treaty prescribes an appropriate minimum age for marriage. The onus of specifying a minimum age at marriage rests with the states' parties to these treaties.

Several treaties prescribe the hard norms we use to assert human rights violations associated with child marriage. They include (but are not limited to): the right to freedom from discrimination; the right to choose a spouse and to enter into marriage with free and full consent; the right to health; and the right to protection from all forms of sexual exploitation and sexual abuse.

We have to rely extensively on soft norms that have evolved from the TMBs and that are contained in conference documents to assert that child marriage is a violation of fundamental human rights.

In the main treaties and conventions relevant to marriage and the rights of women and children, the issue of minimum age at marriage has been dodged by the use of phrases—such as ''full age'' and references to full and free consent as the proposed standard for determining the validity of a marriage. Even the Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages (1964) does not clearly articulate an appropriate minimum age. Notably, the African Charter on the Rights and Welfare of the Child, does recommend a minimum age of 18 and is the only treaty to do so.

Committees have issued general comments and recommendations emphasizing the problematic aspects of child marriage. Most have issued concluding observations that discourage and condemn child marriage as a human rights violation.

The Beijing PFA echoes most treaty provisions relevant to the issue of child marriage by calling upon governments to enact and strictly enforce laws to ensure that marriage is only entered into with the free and full consent of the intending spouses. It also requires governments to ''raise the minimum age where necessary.'' While thus provision does mark a step forward, it does not take a position on what the minimum age should be.

III. More norms vs. better enforcement

Because we wish not only to set standards for government behavior, but also to ensure that governments understand that they are bound to those standards, our success depends on some focus on enforcement of international law. Gaps in the substance of human rights instruments are accompanied by weaknesses in mechanisms for enforcing even the most accepted norms. Accountability is rarely achieved even for governments who engage in arbitrary killings and torture. It is even more difficult to ensure the enforcement of economic, social and cultural rights, which, while legally 'binding, offer few measures for compliance. We are particularly sensitive to the practical difficulties of enforcing the Women's Convention, which enumerates a number of rights that are fundamental to enjoyment of reproductive rights. A question arises as to whether promoting the recognition of an expanding body of rights might dilute the still untested gains that we have made in the past 20 years.

Many human rights activists have focused on developing better mechanisms for enforcing existing norms, rather than filling the substantive gaps in binding 'instruments. The campaign for the International Criminal Court is an example of an effort to make highly accepted international legal norms—the principles of the Geneva Conventions—more practically enforceable in an international forum.

As a program, we should consider whether we would be better served engaging in the process of enforcing existing norms—through international litigation, factfinding, reporting to the treaty monitoring bodies—rather than developing the substance of international law. (In reality, both of these goals can be pursued simultaneously, but our question here is one of emphasis.) We could also focus on developing new mechanisms for governmental accountability, which could themselves be the basis of a new legal instrument.

Should we decide, however, that we cannot move forward in our work without the development of stronger substantive norms, there are a few strategies we can take. These strategies are not exclusive and each can reinforce the others. However, because we wish to take a more self-conscious approach to choosing our strategy, we have laid them out in the following section.

IV. How to fill normative gaps

A. Seeking Authoritative Interpretations of Existing Norms

This approach involves developing a jurisprudence that pushes the general understanding of existing, broadly accepted human rights law to encompass reproductive rights. Such a jurisprudence is developed primarily through:

Report to the treaty monitoring bodies;

Bring cases to international and regional adjudicative bodies (such as cases we have so far brought before the Inter-American Commission); and

Bring claims based on international law to national-level courts (such as the recent PMTC cases brought before the South-African Constitutional court by the local HIV/AIDS Advocacy group, Treatment Action Campaign.

While, given the variety of jurisdictions, the common law concept of ''precedent'' has little bearing in this context, international jurists are aware of how legal questions have been resolved by their peers in other fora. Arguments based on the decisions of one body can be brought as persuasive authority to decision-makers in other bodies,

There are several advantages to relying primarily on interpretations of hard norms. As interpretations of norms acknowledging reproductive rights are repeated in international bodies, the legitimacy of these rights is reinforced. In addition, the gradual nature of this approach ensures that we are never in an ''all-or-nothing'' situation, where we may risk a major setback. Further, it is a strategy that does not require a major, concentrated investment of resources, but rather it can be achieved over time with regular use of staff time and funds. Finally, there is a stealth quality to the work: we are achieving incremental recognition of values without a huge amount of scrutiny from the opposition. These lower profile victories will gradually put us in a strong position to assert a broad consensus around our assertions.

There are also disadvantages to this approach. As decisions are made on an ad hoc basis to apply to a variety of situations, there may be a lack of clarity or uniformity in the decisions.. It thus may be harder to point to one position as an ''accepted'' interpretation. In addition, the incremental nature of this approach escapes the notice of not just our opponents, but also our potential allies. It is very difficult to gain press attention to issues affecting a relatively small group of.people or a narrow set of facts. Finally, because we cannot rely on respect for precedent in international and national bodies of overlapping jurisdictions, gains that we achieve may be lost in subsequent decisions. While we have seen an encouraging trend in international jurisprudence, we are forever at risk of losing ground in the same fora.

B. Working Toward a Customary Norm

The second approach has much in common with the first. It involves a gradual process of seeking repetition of interpretations of existing norms to encompass and protect reproductive rights. Again, we seek affirmation in international adjudicative fora and national-level courts, as well as at international conferences. The difference in taking this approach is that it would require adopting an overarching strategy for our interventions. We could first develop a wish-list of international legal protections that need to be developed, ideally through convening workshops around the world designed to sound out additional gaps in existing international law and reinforce the interest of allies in following a set of strategic priorities. We would then seek every opportunity to get items on our wish-list incorporated into treaty interpretations and soft norms.

The advantages of such an approach are many. First, it would give focus to our current work, forcing us to establish a set of priorities. Our priorities could be reflected both in our advocacy and in our efforts to shape public opinion. The approach would draw a minimal level of distracting opposition, while increasing our visibility with our allies.

The major disadvantage is that developing a customary norm is a slow process and it is difficult to know when you have accomplished your goal. Very few norms that are currently considered accepted and mainstream can be attributed to recent deliberate campaigns. While the standard for creating a customary norm is open to some scholarly debate, most such norms can be traced to centuries of practice and belief. In addition, although we are talking about undertaking a campaign of sorts, it is a difficult one to explain to non-lawyers and it is not very sexy.

C. Seeking Adoption of a New Legal Instrument

Finally, if we determine that the foregoing options are ineffective, we should consider whether the weaknesses in international law can only be remedied with the adoption of a new legal instrument. Such an instrument could be a protocol to an existing treaty (such as the optional protocol to the African Charter on Human and Peoples' Rights or a new protocol to CEDAW) or a free-standing treaty. A campaign for the adoption of a new international treaty would be an extremely involved, resource-intensive and long process. It might begin with a campaign for a General Assembly Declaration on Reproductive Rights or another soft norm. Then there would be a process of drafting a treaty, getting broad input from many key players. Again, workshops would have to be held around the world to establish buy-in. Then there would be a process of, identifying sympathetic delegates in the General Assembly. These efforts would be followed by years of campaigning, with the leadership of a sophisticated, media savvy team.

There are clearly a number of advantages to this approach. First, it offers the potential for strong, clear and permanent protections of women's reproductive rights. Further, having a campaign with clear objectives could serve as a focal point for advocacy around the world. In addition, the campaign itself could have an educational function with the potential to influence national-level legislation.

There are also potential disadvantages to consider. Embarking on a campaign for a new legal instrument appears to concede that we do not have legal protections already, making failure potentially costly. Moreover, during the many years it takes to succeed in adopting an instrument, we create the impression that women are ''protectionless.'' Second, the campaign is unlikely to succeed in the near term, and thus might be deemed a waste of limited resources. Finally, depending of the timing of the campaign and the surrounding conditions, it could stir up nasty opposition, which might ultimately set the movement back, at least temporarily.

V. Conclusion and further questions

There are a number of questions that we would need to answer before we decided on a strategy. Some of these questions may be. best answered by people outside the organization. These might include Ruth Wedgwood, David Weissbrodt, Oscar Schacter, Donna Sullivan, Ken Roth, Rebecca Cook, Roger Norman, Widney Brown, Anika Rahman, and certainly others. Whatever strategy we pursue, we should continue to research our approach, perhaps by enlisting the assistance of students at a law school clinic.

Here are some questions we would like answered:

1. Are the weaknesses in international norms protecting reproductive rights of a severity that can only be remedied by the adoption of a new legal instrument?

2. Do most governments currently think that they have a duty to uphold reproductive rights? Do they care about interpretations of hard norms and do these interpretations shape their views about their obligations under international law?

3. As a matter of public perception, does pursuing a new instrument—without any assurance of success—undermine current claims regarding the existence of reproductive rights?

4. Would it be more strategic, to consider an instrument covering other ''gaps'' in legal protections for women's rights and include these?

5. How have other movements succeeded at creating norms that governments consider binding?

6. What would be an appropriate timeline for pursuing a new legal instrument?

7. Would we be the group to take the lead on a campaign for a new legal instrument?

MEMO #2—ESTABLISHING INTERNATIONAL REPRODUCTIVE RIGHTS NORMS: THEORY OF CHANGE

Our goal is to ensure that governments worldwide guarantee women's reproductive rights out of an understanding that they are bound to do so. The two principal prerequisites for achieving this goal are: (1) the strengthening of international legal norms protecting reproductive rights; and (2) consistent and effective action on the part of civil society and the international community to enforce these norms. Each of these conditions, in turn, depends upon profound social change at the local, national and international (including regional) levels.

Ultimately, the goal of strengthening international norms and enforcement is to ensure that appropriate legal norms are in place at the national level so as to improve women's health and lives. Working on the above prerequisites can help ensure. national-level normative changes, but these processes are not linear and the adoption of appropriate national-level norms may happen first and can, in turn, influence and strengthen international standards. Our goal above is reached only when governments in fact guarantee women's reproductive rights, first by adopting appropriate laws and policies, and, second, by adequately implementing them. Thus, a third prerequisite is suggested that reinforces international standards: adoption and implementation of appropriate national-level norms.

Achieving the above goal does not depend on legal strategies alone. Support for norms and their enforcement may require sustained public awareness-raising campaigns, media attention, and support from key sectors like the medical community, among others. The role of law in social change is a complex one. But the adoption of good reproductive rights norms at the national, regional and international levels is crucial because it indicates such norms' formal recognition, and provides a firm basis for the government's duties, including its own compliance and its enforcement against third parties. With formal recognition of reproductive rights through law, women's ability to exercise these rights is left to chance.

The remainder of this memo attempts to concretize the Center's theory of how such change can be achieved, with an emphasis on the Center's possible role in this process. This memo serves as an initial concept paper, not a work plan. In some cases, activities identified are already well underway. But, in any case, we recognize that we cannot undertake all the work suggested by the analysis below, but that this provides us with a more concrete starting point for identifying what needs to be done and our appropriate roles.

1. Strengthening international legal norms

Our legal analyses to date are primarily based on interpretations of well-accepted international norms. There are at least three means of strengthening these norms to ensure greater protection of reproductive rights: broadening authoritative interpretations of existing norms; gradually establishing an international customary norm; and adopting a new legal instrument protecting reproductive rights. (For a more detailed description of these approaches, see Memo #1.)

Regardless of the mechanism, expanding legal protections requires action on multiple fronts. First, there is a process of developing broad international agreement among our allies and potential allies on what the norms should be. Second, steps must be taken to put reproductive rights on the agenda of international normative bodies. Finally, advocates must foster broad support for reproductive rights among governments while countering opposition. The following subsections will address each of these activities in greater detail.

A. Developing Agreement on Norms

Much of the work of developing agreement on norms protecting reproductive rights has been achieved at United Nations conferences, including the International Conference on Population and Development (1994) and the Fourth World Conference on Women (1995). While documents adopted at these conferences are not themselves legally binding, they are a clear articulation of most of our institutional values, and they have been formally accepted by nearly every government in the world. There are (as noted in Memo #1) a number of gaps in the content of these international agreements, and much work is needed to gather support for the Center's position on how these gaps should be filled. For example, the Center needs to continue its advocacy to ensure that women's ability to choose to terminate a pregnancy is recognized as a human right. Advocacy of this nature can be carried out through various means, including:

Public education and awareness-building, in part through production of advocacy materials and publicity surrounding their release;

Bringing reproductive rights into the mainstream of legal academia and the human rights establishment; and

Collaboration with NGOs engaged in establishing legal norms at the national level.

B. Putting Reproductive Rights on the International Agenda

Developing broad agreement on norms protecting reproductive rights does not in itself ensure that they will find their way into international law. Advocates have to look for opportunities—such as international conferences and meetings of treaty monitoring bodies and other UN human rights bodies—to put norms relating to reproductive rights on the international agenda. In some cases, the timing of such efforts may depend upon strategic considerations. For example, advocates for reproductive rights opted not to lobby for an official 10-year review of the International Conference on Population and Development, fearing that negotiations would be hijacked by the right-wing, which includes the current U.S. Government.

There are several means of putting reproductive rights on the agenda of international normative bodies, including:

Identifying allies in government and civil society who can champion reproductive rights;

Securing positive interpretations from the treaty monitoring bodies related to reproductive rights, either through the reporting processes or by bringing individual complaints;

By seeking action from such UN and regional bodies as the Human Rights Commission and its sub-Commission and the European, Inter-American, and African commissions/courts on human rights; and

Engaging the media in bringing reproductive rights to the attention of relevant international, regional and national normative bodies, including legislators, other government officials, local and international judicial bodies, as well as medical bodies that can influence law and policy.

C. Garnering Support Among Governments and Countering Opposition

Ultimately, we must persuade governments to accept reproductive rights as binding norms. Again, our approach can move forward on several fronts, with interventions both at the national and international levels. Governments' recognition of reproductive rights norms may be indicated by their support for progressive language in international conference documents or by their adoption and implementation of appropriate national-level legislative and policy instruments. In order to counter opposition to an expansion of recognized reproductive rights norms, we have questioned the credibility of such reactionary yet influential international actors as the United States and the Holy See. Our activities to garner support for international protections of reproductive rights include:

Lobbying government delegations at UN conferences and producing supporting analyses/materials;

Fostering alliances with members of civil society who may become influential on their national delegations to the UN; and

Preparing briefing papers and factsheets exposing the broad anti-woman agenda of our opposition.

2. Enforcing international protections of reproductive rights

For legal protections of reproductive rights to be meaningful, they must be tested through concerted enforcement efforts. Enforcement of human rights norms can be pursued at the national, regional and international levels. Some enforcement strategies, such as the use of the treaty monitoring bodies, also serve the goal of strengthening legal norms, as described above.

Advocates' use of enforcement mechanisms can help cultivate a ''culture'' of enforcement in which violations of reproductive rights are recognized as such by victims, and complaints are addressed under conditions of impartiality and the rule of law. Specific activities that contribute to enforcing international norms include:

Using adjudicative mechanisms at the national, regional and international levels;

Documenting, and publicizing reproductive rights violations and recommending appropriate reforms; and

Supporting efforts to strengthen existing enforcement mechanisms, such as the campaign for the International Criminal Court and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

3. Adoption and implementation of appropriate national-level norms

An important measure of the extent to which a particular government accepts its obligation to respect, protect and fulfill reproductive rights is whether it has adopted and is properly implementing appropriate legislation and policy. This may come about through means other than an international enforcement effort. For example, the national political moment may be ripe for change, with or without the influence of international standards. Such changes in one or more countries, particularly key countries in a region, may have a catalytic effect on neighboring countries or on the solidification of international norms. Moreover, these kinds of changes, whatever the impetus, must be encouraged as they are more likely to have an immediate impact on the health and lives of women previously unable to enjoy reproductive rights.

Similar to activities outlined in #2 above regarding enforcement, possible activities in this area include the following:

Providing input to civil society or government actors to change offensive laws or adopt progressive laws where none had existed;

Examining the effectiveness of implementation of laws and policies; and

Assessing whether courts are adequately enforcing existing legislation.

DOMESTIC LEGAL PROGRAM SUMMARY OF STRATEGIC PLANNING THROUGH OCTOBER 31, 2003

Staff attorneys in the Domestic Legal Program (DLP) have met with our strategic planning consultants and Nancy Northup to discuss our current work and to plan for the future. At our initial meeting we focused on the following issues:

Abortion Litigation: Are the litigation strategies of the last 10 years still viable? If so, for how much longer? Should we be taking a different approach to some of the issues that we have been litigating?

How can we influence the people who influence the legal landscape around reproductive rights? How does CRR influence these communities now? Are there new strategies we should adopt? What are the key issues? What would it take to resolve those issues?

Expanding Beyond Abortion. What are the other reproductive rights issues we have not been addressing or that we should put renewed energies into?

As a result of these discussions, we formed working groups on the following four issues: (1) the future of our traditional abortion litigation; (2) development of systematic approaches to or ''campaigns'' concerning selected core issues; (3) the development of non-abortion related litigation; and (4) development of new approaches to influencing the legal landscape. A summary of our thinking to date follows:

I. The future of traditional abortion litigation

We believe that the traditional abortion litigation that has formed the core of our legal program in the United States has been, and is likely to remain, the most effective strategy for protecting the right to choose abortion in hostile political climates, like that we face today, as well as in friendlier times. Even under pro-choice Administrations, women's right to choose has always needed, and will need again, the protection of the judiciary from hostile majorities in many, if not most, states. Moreover, Supreme Court decisions in litigation arising from these hostile states have defined the contours of the right to choose. If CRR is going to continue to have an impact on legal developments in our field, we need to continue to be involved in these cases. Therefore, we will carry on in this area, informed by evolving standards in some areas, such as TRAP and biased counseling cases. We have also made a plan for reviewing our options to bring new ''affirmative'' litigation in areas such are Medicaid funding and parental involvement. The attached memo (#1) discusses these issues in some more detail.

MEMO #1—FUTURE OF TRADITIONAL ABORTION LITIGATION

I. Traditional work

When the Center was founded in 1992, its staff was already well-known for the litigation conducted at the ACLU's Reproductive Freedom Project. The Center built on that reputation and, through the 1990's, solidified its position as the preeminent team litigating on reproductive rights in the U.S, with the largest caseload by far of any other group. The Center's reputation developed because of its willingness to litigate issues others had discarded (e.g., waiting periods and, originally, the ''purpose'' prong of Casey (which has since been eviscerated by the Supreme Court)), its determination to push the envelope with legal theories that were sometimes on the edge, and because of the sheer

volume of cases we have been able to handle with a fairly small staff. We have also earned a reputation as being very client focused—often assisting clients with issues that arise in their day-to-day operations—issues that other attorneys either cannot or will not handle (a recent example is the litigation in Michigan over the payment provision in the amendment to the waiting period statute, an issue the ACLU RFP declined to litigate). Although often in a defensive posture, challenging restrictive legislation enacted in the states, the Center sought to use this litigation to restrict the reach of Casey's undue burden standard and to strengthen the ''state interest'' inquiry in privacy and equal protection claims.

Recently, the frustration of funders with the current Administration and anti-choice Congress, and their assault on reproductive rights and the judiciary, has led some to question the usefulness of traditional abortion litigation. What good is all our work if the Bush Administration can simply take it all away with the stroke of a pen, by, for example, enacting the federal partial-birth abortion ban that we are currently fighting?

Therefore, we are examining whether our traditional work will continue or whether we need to anticipate a new legal landscape, either because limitations on the right to choose will be firmly established and viable legal challenges will dwindle or because Roe v. Wade will be overturned or substantially undermined, also eliminating the cases that make up much of our current docket.

A. Will Our Traditional Work Continue in Its Current Form?

This group examined our traditional work, particularly focusing on whether we should alter the standards we use to evaluate whether to bring a case in one of our traditional areas, such as TRAP, parental involvement, abortion bans, biased counseling/mandatory delay laws. We believe this work will continue, though in some altered forms. Two examples are:

It is unlikely that we will bring another federal court challenge to a requirement that women make two-trips to their abortion provider, but we will continue to evaluate whether these laws can be challenged on other grounds and whether a state court challenge is appropriate;

We may bring limited challenges to TRAP schemes, particularly where they threaten patient privacy (the outcome of our Arizona TRAP case on appeal to the Ninth Circuit will be important here).

B. Additional ''Affirmative'' Litigation To Bring in Our Traditional Areas?

We also examined whether there is additional ''affirmative'' litigation we should bring. While we think there is probably only one more viable state constitutional challenge to a Medicaid funding ban left, we believe that we should do additional research on state constitutional equal protection case law to insure that this is the case. Coming off our recent successes in Alaska and Florida, we have considerable expertise in state constitutional challenges to laws forcing parental involvement in a minor's decision to have an abortion. We will determine whether to move forward in any more states as part of our Systematic Campaign discussed in Memo #2.

We are also following through with our cases challenging Choose Life license plates and the fundraising these plates do for so-called Crisis Pregnancy Centers. We are currently seeking law firm support for new cases in two or three states.

II. What is the framework for answering these questions?

In developing our plans for new litigation, we will balance the following factors: impact on clients; impact on women; helpful to jurisprudence; distinguishing ourselves from the field by taking on issues others wouldn't; dominating specific areas to insure CRR's impact in that area; other organizations' involvement in these issues; institutional resources; and costs.

MEMO #2—REPORT TO STRATEGIC PLANNING PARTICIPANTS FROM SYSTEMATIC APPROACH SUBGROUP

This group met to discuss ''systematic approaches'' or ''campaigns'' that CRR might pursue. We considered five possible topics for such an approach: (1) minors' access to reproductive health care; (2) developing our use of equal protection jurisprudence to protect reproductive rights; (3) minimizing the burdens of the undue burden standard; (4) abortion funding/Harris v. McRae issues; and (5) developing our use of first amendment jurisprudence to protect reproductive rights. These topics were suggested at the initial strategy meeting of the domestic program. For each topic, we considered whether a campaign would be useful to the field, what the positives and negatives would be to pursuing the campaign, whether the Center is well-positioned to pursue the campaign, and how the campaign might be effectuated.

It is our opinion that our field would benefit from a systematic approach in the first two of these areas—minors and equal protection—and that the Center is well-positioned to pursue such an approach in those areas. We believe that the Center needs to undertake work in the third area—undue burden—but that such work may not be well-suited to the context of a campaign. Finally, it is our opinion that a systematic approach would not be productive or useful to the field with respect to the last two areas—funding and first amendment. This does not mean that we wouldn't do work in these areas but just that they do not lend themselves as well to a systematic campaign.

The following is a summary of our discussion of the five possible campaign areas. For each area, we have included an articulation of the possible campaign and some thoughts about the positives and negatives of pursuing that campaign. With respect to the three areas where we thought a campaign—or, in the case of undue burden, other work—might be useful, we have also included some possible elements for the campaign.

I. Minors

Articulation: A project to secure the fundamental right of minors to access all reproductive health services confidentially. This includes: (1) undoing the notion that parental rights are an adequate justification for imposing additional burdens on minors seeking abortions or other reproductive health care; (2) staving off efforts to require parental involvement for minors seeking contraception and abortion; (3) undoing child abuse reporting requirements with respect to non-abusive sexual relations; (4) ensuring minors' ability to consent to all reproductive health services; (5) establishing minors' right to comprehensive information about reproductive and sexual health.

Positives: (1) This has always been one of our priority areas. (2) We are seeing the antis push hard to diminish minors' rights, so we should see what we can come up with to push hard back (i.e., being proactive in addition to defensive). (3) The topic lends itself well to a systematic approach. (4) The issue extends beyond abortion. (5) This is a topic about which we can coordinate efforts with our international program.

Negatives: (1) In terms of parental involvement for abortion, we have large body of federal case law against us (which makes our campaign harder), and the reasoning of that case law could be applied to contraception. (2) It is very difficult to garner public and legislative support on issues concerning minors. (3) We will likely have to confront the politically difficult issue of whether minors have a right to have sex (and more generally, whether minors should be treated as adults). (4) This area involves difficult line drawing and subtle points that are difficult to convey to the public in an appealing way. (5) There is growing opposition amongst minors to abortion and being pro-choice (or at least a national pro-life campaign aimed at teens that is garnering more public attention).

Possible Elements:

(1) Legal research and writing to (a) debunk the extent of parental rights currently recognized; (b) discuss the development of minors' legal rights generally; and (c) analyze sodomy and death penalty cases to see how courts and litigants have relied on evolving societal norms and social science evidence.

(2) Comprehensive survey of available scientific evidence supporting our positions (e.g. re: competency of minors, importance of confidentiality for access), to use to (a) strengthen our position and to (b) assess where we need to fill in the gaps.

(3) Follow up to fill in the gaps with additional studies, development of expert witnesses, etc.

(4) Work with major medical groups to develop and expand public policy regarding minors' ability to consent to medical care and need for confidentiality.

(5) Advance legislation re: minors' ability to consent to care and confidentiality of care.

(6) Develop litigation—bring facial challenges to non-abortion consent and confidentiality issues in federal court; as-applied challenges to parental involvement for abortion laws in federal court; state courts cases to establish rights or minors.

(7) Public education strategy to support legislative/litigation efforts.

(8) Develop an international component, which looks at international norms on the rights of children.

II. Equal protection

Articulation: Project to expand the use of equal protection doctrine to protect women's access to abortion and contraception. This includes: (1) reversing decisions indicating that pregnancy and abortion discrimination are not sex discrimination; and (2) developing the fundamental rights strand of equal protection to prevent singling out of abortion and abortion patients from rest of medicine for the imposition of special burdens.

Positives: (1) This is an area of law that we could do more with. (2) Because this area of law is not yet firmly established in the abortion arena, we don't have to overcome lots of precedent to be able to make progress. (3) Equal protection claims get us out from under some of the proof difficulties we have with undue burden claims. (4) This project is more accessible to the public than the undue burden project. (5) This project gives us a way to talk about abortion in terms of fairness and discrimination principles, which are appealing and understandable to the public. (6) This issue is important to our goal of ensuring access to abortion. (7) This project might be able to be combined with the undue burden project.

Negatives: None articulated other than the potential for bad outcomes, which exists with all five possible projects, and the fact that federal courts have not yet been receptive to equal protection arguments where they have been advanced.

Possible Elements:

(1) Legal research and writing as to (a) abortion as sex discrimination; (b) abortion discrimination under the fundamental rights

strand; and (c) analyze sodomy and death penalty cases to see how courts and litigants have relied on evolving societal norms and social science evidence.

(2) Analysis of how equal protection jurisprudence has evolved in other areas.

(3) Public education to talk about abortion laws (and other obstacles to repro health care) as both discrimination against women and unfair discrimination against abortion.

(4) Look to expand the litigation areas in which we push equal protection claims and state ERA claims (e.g. contraceptive equity, challenges to abortion restrictions as applied to medical abortion).

(5) Analysis of the kinds of factual development we should do in cases in which we bring equal protection claims.

(6) Development of studies helpful to our equal protection claims such as (a) study comparing the morbidity and mortality of abortion with that for other office surgeries; (b) study establishing that other health care decisions women make are comparable to the abortion decision in relevant respects.

(7) Develop strategies for advancing legislation that would add to women's protections against sex discrimination in health care (e.g. establishing that disparate impact on pregnant women is sex discrimination).

III. Undue burden

Articulation: Project to limit the'application of the undue burden standard and to increase its ''bite'' so as to bring it as close to strict scrutiny as possible. This includes: (1) limiting the application of the undue burden standard (e.g. requiring a health exception and service of a legitimate state interest regardless of burdens); (2) developing meaningful purpose prong challenges; and (3) developing case law establishing some burdens as undue.

Positives: (1) The law in this area is not yet fully developed so we have some more room to make progress than we do in other areas. (2) Progress in this area would positively affect all our abortion cases. (3) This issue is important to our goal of ensuring access to abortion.

Negatives: (1) This project is difficult to support through public education or media (since it is so legally-focused). (2) These kinds of cases are very resource-intensive. (3) Successes in these factually-intense cases can be difficult to apply more broadly.

Possible Elements:

(1) Analysis of federal courts' application of the undue burden standard and assessment of where they have improperly articulated the standard.

(2) Legal research and writing regarding (a) how the standard should be interpreted; and (b) areas where we can try to limit application of the standard (e.g., with health exceptions, lack of legitimate state interest).

(3) Analysis of which types of abortion restrictions actually have the effect of imposing the greatest burdens.

(4) Obtain studies demonstrating the effects of those most burdensome laws.

(5) Litigation challenging those most burdensome laws in favorable circuits.

IV. Funding

Articulation: A project to overturn Harris v. McRae by building upstate court opinions, state legislation and factual bases to compel the Supreme Court to overrule its prior decision as it did in Lawrence v. Texas with respect to Bowers v. Hardwick. The strategy would be to showthat the law and social standards have evolved since Harris v. McRae in recognition of the fact that, for poor women, access to public funding for abortion is part of their constitutional right.

Positives: Funding is one of our priority issues, and the Harris decision has had a very significant on women's access to abortion.

Negatives: Unlike what happened with sodomy laws, we are not going to be able to get an expansion of abortion funding rights in the states: we are running out of state courts to rule in our favor on the funding issue, and in most states we have no chance of getting the legislature to act in our favor.

V. First amendment

Articulation: Project to enhance reproductive rights through the development of first amendment theories in areas like specialty license plates and biased counseling.

Positives: (1) We could try to develop this area of law, in which we have had some success; (2) restrictions that are imposed on speech about abortion, and preferences given to antiabortion speech, undermine the right by contributing to an anti-choice public dialogue about our issue.

Negatives: (1) First amendment theories have limited application to restrictions on reproductive rights; (2) this area does not lend itself as well to a ''campaign.''

MEMO #3—REPORT TO STRATEGIC PLANNING PARTICIPANTS FROM ''OTHER LITIGATION'' SUBGROUP

This group met to discuss ''other litigation'' that CRR might pursue in addition to areas in our current docket. We focused on three main areas: (1) contraception; (2) women of color; and (3) misleading information. These topics were discussed at the initial strategic planning meeting of the domestic program. For each of these topics, we considered some of the possible ways that we might pursue work in these areas; the positives and negatives of pursuing these strategies; and possible elements pursuing these issues might entail.

I. Contraception

Articulation: The Center's commitment to reproductive rights includes a woman's right to control if and when she becomes pregnant. We considered possible ways that we may be able to expand our work in the area of contraception, including potentially focusing on: (a) funding restrictions (e.g., restrictions in Medicaid, Title X, and in abstinence-only programs); (b) government restrictions, both on a macro and micro level (e.g., statutes and or regulations; police harassment of sex workers by destroying condoms; school policies that prohibit condom distribution); (c) Title VII and Title IX cases, expanding the Title VII precedents into the university setting; and (d) women of color's specific concerns in this area (e.g., steering towards certain methods; unique access issues; and implications in sentencing).

Positives: (1) This is an area in which the Center has had a long-standing commitment and it would affirm that commitment to litigate issues affecting access to contraception. (2) Work in this area could have a significant impact on the lives of women. (3) Increasing access to contraception is much less controversial than abortion. This could be potentially significant to donors, press, public, and courts. (4) Expanding our work in this area would undercut the criticism that we are solely an abortion-rights organization.

Negatives: (1) It is difficult to find legal theories to pursue many of the areas identified. (2) In those areas where legal theories are clearly articulated (e.g., Title VII and Title IX), it is difficult to find women willing to be plaintiffs and there are many groups pursuing these goals.

Possible Elements:

(1) Research and assess whether there are viable legal avenues to pursue in this area;

(2) In those areas where there are well-articulated viable legal avenues, assess whether or how much resources the Center should direct in light of other groups' commitment to these issues;

(3) Collaborate with groups that are working more directly with these issues to see if we can educate ourselves to possible litigation opportunities;

(4) Assess whether there are non-litigation opportunities and consider if this is an area we would consider directing resources.

II: Women of Color

Articulation: Laws restricting access to reproductive health services disproportionately affect women of color and women facing economic barriers. Our litigation work on funding bans is an example of our longstanding commitment to this area; however, we need to explore other ways of addressing the needs of this population head-on. While the work of the International Legal Program deals with many of these issues, we realize that the Domestic Legal Program could place more specific emphasis in this arena. Some of the possible areas of litigation which cross-over with ILP are: (1) women in the criminal justice system; (2) immigration; and (3) trafficking; and (4) safe motherhood/pregnancy.

Positives: (1) This has always been one of our priority issues; (2) we cannot claim to be serving the reproductive health needs of women in the U.S. if we are ignoring issues specific to women of color; (3) the issue extends beyond abortion; and (4) we may be able to coordinate efforts with the International Legal Program.

Negatives: (1) We are not sure that legal strategies are the most useful strategies to combat reproductive health issues specific to women of color and economically disadvantaged women; (2) we have little experience (and some would say credibility) in this area, other than defense of women being prosecuted for drug use and our Medicaid cases, and, therefore, would first need to take a systematic look at the needs of women confronting racial and economic barriers, and would need to devote the resources to do this properly; (3) cases in this realm might involve non-impact litigation, which we aren't as accustomed to taking on; and (4) we are a department/organization comprised largely of economically advantaged white women, which undermines our credibility in this area.

Possible Elements:

(1) Focus on areas in which we already have some expertise, e.g., treatment of pregnant women who use drugs or abuse alcohol, women in prisons and funding issues.

(2) Identify other areas in which specific issues facing women with economic and social barriers could be remedied or addressed through legal strategies, e.g., issues facing immigrants and migrant workers, and safe motherhood/pregnancy issues.

(3) Work in partnership and build relationships with other groups working on issues affecting the health of women of color.

(4) Identify legal strategies.

III. Misleading Information

Articulation: This area includes the following issues, which we believe contain misleading information by definition, or often incorporate misleading information: (1) abstinence-only education; (2) abortion/breast cancer link; (3) crisis pregnancy centers (''CPC's''); and projects by anti organizations such as Life Dynamics Inc. (''LDI'') that distribute misleading information. The most noteworthy project by LDI was their campaign to public schools indicating that a school, or school employee, could be legally liable for distributing reproductive health information to students.

Positives: (1) Distribution of misleading information regarding reproductive health care can have devastating effects and undermines our goal of enabling women to be knowledgeable and obtain safe and medically

appropriate reproductive health care; (2) this has been a more recent and successful campaign by the antis, both to the public and in the courts; (3) outing the antis as liars would undermine their credibility; (4) although several medical and health people and groups, as well as legislators, are outraged by these tactics, there hasn't been much success in countering these attacks; thus, we could stand out on these issues. In fact, we are the only group with significant experience litigating (and refuting) the claims of an abortion-breast cancer link.

Negatives: (1) We have struggled for years without much success to try to develop legal theories to attack these issues proactively; (2) we think that there might be viable non-constitutional legal theories, but we are not experts in some of those areas and therefore don't even know of the existence of some avenues; (3) cases in this realm might involve non-impact litigation, which we aren't as accustomed to taking on; (4) individual cases in this area often are seen as less important than the impact litigation facing us and, therefore, fall through the cracks; (5) LDI has been quite careful to try to stay within legal bounds with their misleading attacks.

Possible Elements:

(1) Decide if this area is a priority for us and determine if that depends on whether we can litigate in the area or not. If so, proceed to the following elements;

(2) Brainstorm regarding litigation versus non-litigation tactics;

(3) Do fact research on types of misleading information and then prioritize potential attacks on the different types of dissemination;

(4) Do legal research in obvious areas with which we are familiar—i.e., First Amendment entanglement/establishment clause (see license plate cases and the Gibbons case in E.D. La.);

(5) Determine how to familiarize ourselves with other areas of law that we're not so familiar with—including business torts such as interference with business, torts, false advertising—both currently and how to keep abreast of changes in the area (have a law firm do a CLE for us and be our consultant on such matters?);

(6) If lawsuits are a viable option, decide how to proceed with them (alone? With a law firm?).

What are our criteria for project and site selection? Do we have ''clients''? Are they our NGO partners? Women in need? UN agencies? Sister organizations in the US/Europe? How can we make these ''clients'' more a part of our strategic planning and priority setting?

C. Integrating the Center's Program Work

The Center's work in the U.S. and abroad has proceeded on independent tracks (e.g., we have not used the international human rights strategies in the U.S.). Should the new interest by the Supreme Court suggest we should be taking a human rights approach in the U.S.? What would that involve? Are there other ways in which our domestic and international work could be integrated?

STRATEGIC PLANNING: COMMUNICATIONS—FIRST STEPS

Like the other programs at the Center, domestic and international, Communications needs to be strategic. And for Communications to be strategic, the Center must have a clearly articulated goal.

So the first question we must ask is, Why communications? What purpose does it serve for the Center?

Depending on the organization, Communications strategies vary widely. Here are two examples from two organizations whose Communications programs I directed before coming to the Center.

TWO COMMUNICATIONS MODELS

The Vera Institute of Justice had an entrepreneurial goal. We wanted government officials to hire us to make government justice systems fairer and more efficient. We believed that without actual government investment in the research and projects we piloted, there wouldn't be the necessary will to change. And we wanted to be known, unlike government bureaucracy, as an organization that got things done.

This goal meant that Communications strategy focused on marketing more than advocacy. We developed strong research reports and briefing papers, as well as attractive and forceful ''identity'' materials (that described what we do). We also established the president and other key staff and colleagues as trusted and authoritative resources. But we kept a very low media profile, with a few exceptions. For example, when we launched our citizens' jury project, which essentially acted as ombudsman for jurors in New York City courts, Judge Kaye encouraged us to publicize it as much as possible, because we wanted New York City residents to use the service. For the most part, however, we sought less to get our name in the media than, to change the quality of reporting on criminal justice. So we held a seminar for editors and reporters at which they and criminal justice experts exchanged (no holds barred) views on how the media could do a better job and how researchers could help them do it.

An adjunct goal of Vera's was to encourage the next generation of government official or public interest lawyer who might become our partner in future projects or perform pro bono work for us. For example, we invited law firms to propose young partners to attend a series of after-work seminars we held, introducing them to high-level officials in NYC government who could explain how various parts of the justice system worked.

The International Women's Health Coalition had a very different goal: to promote and protect women's and girls' reproductive and sexual health and rights. Our strategy focused in inserting a gender perspective into international policies and agreements, either directly through our own staff's involvement with global entities such as the World Health Organization or, on a country level, through funding and technical assistance to groups trying to change national and regional policy.

Communications developed and provided written and audiovisual ''tools'' to these groups (case studies of successful programs, how-to manuals, etc.), as well as policy papers, disseminating them widely through our website, and, when possible, publishing in peer-review journals.

We also engaged aggressively with the media, partly in order to embarrass the Bush administration for its failure to support the reproductive rights and needs of women globally. This included the development of Bush and Congress Watch fact sheets detailing the actions and appointments of this Administration that held back progress on women's reproductive rights both domestically and internationally.

Because IWHC also cared about involving the next generation of leadership, we too brought together potential leaders doing cutting-edge work from around the world to encourage dialogue and generate momentum for change. Communications sometimes published the results of those dialogues.

CENTER FOR REPRODUCTIVE RIGHTS: KEY QUESTIONS

In order to develop effective Communications strategies, we must first ask questions like these:

Is our goal to increase our visibility or is it to change how people think about the Center? If it is to become better known, for what and by whom?

What is different about the Center now as compared to earlier in its history? What do we want people to understand about how we've changed?

Is our goal to make people understand reproductive rights as human rights?

What is unique about our organization that we want people to know? What people?

Do we want to be known as a cutting edge organization that generates innovative ideas, i.e. a think tank for litigation and jurisprudence?

Do we have a special role to play to encourage thinking about the proper role of the courts in protecting reproductive rights?

CENTER FOR REPRODUCTIVE RIGHTS—STRATEGIC PLANNING WORKSHOP, NOVEMBER 10, 2003

AGENDA

Overview

1. Introductions, agenda for workshop, strategic planning overview, rules, and roles [9:00–9:30].

2. Agree on a planning perspective [9:30–9:45]:

What can we accomplish in this political and economic environment?

What are appropriate strategic planning horizons for the Center and our issues? e.g. Next 1–2 years; 3–5 years; 5 years plus.

How do we combine strategic cost reduction and strategic planning?

Identify the Issues Raised During the Strategic Planning Interviews and Staff Workshops [9:45–10:15].

Focus the Work

4. International Legal Program: How can we begin to focus our International Program? [10:15–11:30]:

What have we learned in pursuing our 4 key strategies?

Accomplishments and outcomes.

Shortcomings.

What is our Theory of Change guiding our future program activities?

How do we evaluate the effectiveness/sufficiency of existing international norms?

What does this evaluation mean for focusing our work, e.g.:

Testing international and regional enforcement mechanisms?

Timeframe?

Selecting priority countries, issues, projects?

Morning Break [11:30–11:45].

5. Domestic Legal Program: What are the opportunities and limitations in our agenda? [11:45–1:00]

What is the future of traditional abortion jurisprudence?

How is our defensive work moving the legal norms forward?

What is the importance of our continuing litigation work in other areas?

Who else does this work and what gives the Center a competitive advantage?

What is a more systematic approach to strengthening the abortion case?

What would it mean for CRR?

Which issues, e.g. minors and equal protection?

Who else do we bring to the table?

Lunch [1:00–2:00].

Coordination Across Programs

6. A Global Perspective: How can we better coordinate our International and Domestic programs? [2–2:45]

What are the implications for the U.S. as we advocate for International norms?

Why don't we treat the U.S. as a country in the world of nations?

Would the distinct programs have more commonality and synergy if the International Program focused on legal and Human Rights enforcements?

How will this coordination change/enhance our domestic and international agendas?

7. Communications: What issues should we consider as we make Communications a more substantive part of the work we do? [2:45–3:30]

How should we design a communications program to influence/shape the legal landscape around reproductive rights?

How should broader communications strategy integrate our litigation, legislative, research, and advocacy work?

How can we shape and frame our messages differently? More aggressively? With more resonance to more constituents?

What would a multi-year program look like?

Afternoon Break [3:30–3:45]

Leadership

8. Leadership: How can the Center use its expertise to exert more leadership? Distinguish ourselves? Become more collaborative? [3:45–4:45]

What do we mean by ''leadership'' and how do we better/more effectively communicate our leadership role and position ourselves as leaders?

Can we set the broader agenda for the Reproductive Rights (RR) movement?

What will it take to incorporate RR work into a broader Human Rights agenda?

What can we learn and apply from other serious disciplines?

What does it mean to ''stay on the cutting edge''?

How do we engage the broader public interest bar?

Next 3–5 years

Wrap-Up and Next Steps [4:45–5:151

Cocktail Reception [5:15–6:15]

PROGRAM STRATEGIES AND ACCOMPLISHMENTS

(The following program descriptions focus on our core legal program. We have not included descriptions of our state and federal programs as well as our ongoing counsel to providers and patients.)

Domestic Legal Program. Our core strategy domestically is the use of high-impact litigation to secure the highest constitutional protections for women's reproductive rights. Our domestic staff attorneys are among the most senior and experienced reproductive rights litigators in the country. With 21 cases in 13 states—on issues ranging from abortion bans to funding restrictions to forced parental involvement laws—we have the largest and most diverse docket of any pro-choice organization in the United States.

The Center has won two landmark cases before the United States Supreme Court: Stenberg v. Carhart (striking down Nebraska's so-called ''partial-birth abortion'' ban as an unconstitutional violation of Roe v. Wade) and Ferguson v. City of Charleston (affirming the right to confidential medical care and informed consent by striking down a drug-testing scheme targeting poor women of color). In addition, we have:

Secured and restored Medicaid funds for low-income women seeking abortions, with victories in 14 states;

Successfully fought ''partial birth abortion'' bans and other access restrictions, with victories in 16 states; and

Challenged parental consent and notification laws, with victories in 5 states.

International Legal Program. The Center's international program works to establish reproductive rights as. human rights by using international law and legal mechanisms to advance legal norms and secure women's access to quality reproductive health care globally. We are the world's only organization of international human rights lawyers that focus exclusively and extensively on reproductive rights. Nearly all of our international legal advisors come from the regions we cover; all have honed their skills at top law schools, legal organizations and national-level NGO's before joining the Center. At the heart of our international work is a commitment to building a global network for reproductive rights legal advocacy by building the capacity of NGO's to use international human rights laws and mechanisms to advance reproductive rights.

The Center's international program implements four key strategies:

Researching and reporting on national laws, policies and judicial decisions;

Advocating in international and regional human rights fora;

Documenting reproductive rights violations in fact-finding reports; and

Training NGO's and lawyers through legal fellowships and visiting attorney programs, workshops, published and online resources and other technical assistance.

Key accomplishments under these strategies include:

Conceptualizing and publishing the Women of the World (WOW) series. Non-governmental organizations must be able to identify national and regional legal obstacles to furthering reproductive rights in order to craft effective advocacy strategies for removing them. No comprehensive listing of laws and policies existed, however, until the Center launched the WOW series in 1996. Researched and written with partner NGOs, these regional reports document the laws and policies of 50 nations. They cover a range of issues, including: health, abortion, population and family planning, contraception, safe motherhood and women's legal status. To date, we have completed four regional reports: Anglophone Africa, Latin America and the Caribbean, Francophone Africa, and East Central Europe.

Publishing Bodies On Trial, which documents a significant gap between reproductive rights law and judicial interpretation in five Latin American countries. The Center's 150-page report serves as a resource not only in Latin America and the Caribbean but in other regions where advocates are evaluating potential litigation strategies to advance reproductive rights.

Filing groundbreaking legal cases in the Inter-American human rights system and in the UN Human Rights Committee, with two successful settlements to date to ensure that Peru's government abides by international agreements and its existing reproductive rights-related laws.

Securing favorable interpretations of international human rights law from UN and regional human rights bodies, and documenting the increasingly progressive jurisprudence of the UN Treaty-Monitoring bodies in our 300-page report, Bringing Rights to Bear.

Investigating reproductive rights violations in over seven countries, including two reports on Chile and El Salvador that highlighted the role of criminal abortion laws in maternal mortality and two reports that generated significant public pressure to reform criminal abortion laws in Nepal and to safeguard women's rights to informed consent in Slovakia.

Providing technical assistance and capacity to use legal strategies to advance reproductive rights to over 100 organizations in over 45 countries, including training over 16 lawyers in reproductive rights advocacy at our New York office for periods of at least three months.

Launching the Safe Pregnancy Project, a series of fact-finding reports that document laws and policies contributing to maternal mortality in select countries, and make recommendations for change. Our first report, on Mali, was released in February 2003 and presented at the landmark Amanitare Conference in South Africa in March.

Advancing adolescents' access to reproductive health services through reporting, fact-finding and legal advocacy. Our WOW reports specifically isolate legal and policy barriers to adolescents' reproductive and sexual health and rights. Our analysis of the Convention on the Rights of the Child is a definitive resource for advocates and key UN staff alike, as is our fact-finding report, State of Denial, on the inadequate legal and policy protections of adolescents' access to services and information in Zimbabwe.

Establishing our website as the go-to online resource for international reproductive rights legal advocacy. In the past year, advocates in over 150 countries downloaded over 250,000 Center publications.

THE CENTER FOR REPRODUCTIVE RIGHTS
SUMMARY AND SYNTHESIS OF INTERVIEWS

In August, September, and October of 2003, Nancy Raybin and Elizabeth Lowell of Raybin Associates conducted some 18 strategic planning interviews with members of the Center's Board of Directors (10), representatives of long-term institutional funders (5), and colleagues at other organizations concerned with reproductive rights (3). (We did not discuss funding opportunities with any specificity during these conversations because these issues were being addressed in separate Development Assessment interviews by Miller/Rollins.)

We also interviewed members of the management team and other Center staff and facilitated several brainstorming sessions with Center staff of both the Domestic Program and the International Program. All of these (continuing) conversations, either face-to-face or by telephone (when geography or schedule did not permit a personal meeting), focused on creating a vision and future strategies for the Center. Raybin Associates' work intentionally did not focus on internal management and organization, as that had been the subject of fairly recent strategic planning work.

A ''white paper,'' prepared by President Nancy Northup, was sent to each study participant prior to the interview. Some interviewees read the material, some did not, and several Trustees felt that they did not know enough to comment intelligently on the issues and questions raised in the paper. In most instances, they deferred on issues of strategy to Center staff, whom they trust to define and set the direction for the future. Board members unequivocally welcomed the Center's new Director and praised the staff's legal expertise.

The remarks below are both a synthesis and summary of what we learned in our interviews with Trustees, funders, and colleagues. There is no input here from the staff workshops. We have separated the comments made by Trustees from those made by funders and colleagues. A copy of our Interview Guideline is appended; it is important to note that some participants' lack of knowledge meant that many of our questions were not addressed.

MISSION AND VISION

Differentiating the Center

Most Trustees noted that what differentiates the Center is its law and legal work. They noted ''expertise around Reproductive Rights (RR) and Human Rights (HR),'' ''brilliant, focused, sophisticated lawyers who can fight and win,'' and ''who work on the 'cutting edge.''' One Trustee noted that it is the only organization working on the legal and

human rights aspects of RR, but most felt at a loss to speak concisely and specifically about what the Center does that makes it different from other ''players'' in the field. Trustees also cited international work as a unique aspect of the Center, but were unclear as to the specifics of this work.

Funders and Colleagues could, and did, give definition to the international role. They talked about the Center's role in ''linking groups of people trying to advance women's issues globally,'' how the Center helps ''to define and challenge national legal systems,'' and how ''finely-honed the legalistic work'' is. One funder declared, however, that the legalistic often comes at the expense of economic and social justice—and gave a stark example of a Somali woman.

While one funder noted that the Center is unique because of its strong commitment to RR, two others noted: ''other organizations are also grappling with these issues.'' ''The Center should place itself within the range of other groups which do similar work. . . . It is not enough to assert you are unique—you must describe why.'' ''The Center is not unique in litigation; both Planned Parenthood and the ACLU also litigate: How are the client base and issues different and has the Center deliberately developed their expertise accordingly . . . or has it just happened?'' One colleague asked about how the Center views itself: ''as a litigating organization or as a broader advocacy group?''

Articulating a broad vision for the next five years

Trustees hold the Center's staff in extremely high regard. Their level of respect and trust is extraordinary. Most Trustees would largely defer to staff in setting the vision for the future and determining the direction. Having said that, most believe that the domestic focus should still be on abortion. Several Trustees mentioned that they would also like to see work in the related areas of Emergency Contraception (EC), contraceptive equity and comprehensive sex education, including work with adolescents.

Most Trustees think that the image and reputation of the Center needs clarifying and heightening and that collaboration with other RR and HR groups would help to improve the Center's visibility as well as move the agenda(s) forward.

Funders and colleagues believe strongly that the broad vision for the next five years must be ''ruthlessly prioritized.'' ''Their approach should be outcomes-oriented. It's not good enough just to research, write and present. Engineer backwards from what they want to see happen.'' ''I understand the causal model of theory of change; spell it out for us; define the outcome you expect . . . not just winning decisions.'' Most see this as requiring more sharing of expertise. Indeed, partnering with other organizations, both domestic and international, was a strong and recurrent theme in all of their comments. Nepal and Slovakia were cited as examples. where the Center had identified local groups with which to work and had been successful. Acknowledging that the Center cannot do it all, ''after the outcomes are defined, then the Center needs to determine who best to work with locally.'' ''Greater collaboration must be a defining characteristic of the Center's future work.''

In speaking about the international program, one colleague suggested that ''publicly shaming a country, so that it is coerced in doing the right thing (the Amnesty International model) will not work around Reproductive Rights. If, however, the ILP saw itself as a midwife to the global choice movement, that would be a longer-term, albeit, less glamorous vision.''

Funders and colleagues also envision the need for continuing emphasis on Reproductive Rights. ''We must 'stay the course.''' Several commented: ''the Center must continue as the legal reference point for policy implications and shaping thinking and monitoring.'' Most called for a more proactive stance identifying and analyzing trends—and potential backlash. ''This is a real need—and one that the Center could fill. They need to tell the rest of us what's coming down the pike.'' Added another: ''The Center needs to think through the leadership role it can play . . . there is a gap at the national level, which the Center could fill.''

They would also like to see the Center ''provide new and useful information and training'' and ''more paper for colleagues and constituents.'' ''We should get something every three to six months from the Center about what's happening in the field.'' ''But, there is so much information reaching people in the RR arena that if the Center were to spend time better packaging and abbreviating materials, it would get more mileage out of its work.'' ''Electronic newsletters are effective.'' Several funders proposed a serious analysis of Roe v. Wade soon to ascertain the roadblocks lying ahead and the best options for addressing them. None thought that Roe v. Wade would fall, but that it ''might be left out there, hanging all by itself . . . Then what? We need to think that through now.'' ''What happens after PBA? If we win? If we lose? The legal win should not become the public relations loss. There must be a strategy for this.''

Involving and energizing constituents

Trustees, finders and colleagues agree that shaping the Center's focus and making it more easily articulated will help constituents become more involved. ''If we comprehend it ourselves and can explain it to others, we are more likely to activate people.'' Trustees noted: ''our inability to clearly articulate makes us poor ambassadors for the cause.'' Trustees would also like to see a succinct list of successes, both domestic and international, with a timeline, and an explanation of the impact and practicality of these successes. A visual of what has been accomplished in RR—since the Center's founding would help to bring home the ''so what factor''—''So what difference have we made?''

Funders and colleagues emphasize that consistent partnering with other groups will strengthen the Center's overall visibility, present constituents with the bigger picture and bigger numbers, thereby offering more assurance - ''there's some safety in numbers.'' They stress that the Center should take the time now to identify who those long-term partners might be, both domestic and international, and if relationships do not now exist, begin to build them. They further cautioned that in all collaboration the ''emphasis should be on the success of the work rather than the credit.'' ''The need to be the dominant partner can sap energy and good will.''

STRATEGY AND PROGRAM

Assessing progress to date

Most Trustees said that the Center ''does program and strategy well,'' but they were short on specifics. Most believe that the Center ''litigates well.'' Backing up this assertion, two Trustees cited the Center's role in the Nebraska case and its work on Partial Birth Abortion (PBA). Several others referred to its pro-active role around EC. They noted that, despite domestic ''wins,'' the current political climate undercuts the Center's work.

One Trustee cited progress in Chile and Mexico, which could not have happened without the Center's activities. All knew that litigation around abortion was a domestic hallmark, but most could not explain the essential components of the international programs. One did, however, single out the ''spectacular WOW reports, their use at the UN and their import to other international organizations working in the RR and HR arena. Another cited the work in Nepal.

Funders and colleagues alike felt that ''the Center has moved well since its founding.'' More familiar with the international component than the Trustees, three mentioned ''fabulous'' reports . . . but ''want to know what happens next.'' One said candidly, ''I am unable to assess—it's been all over the place,'' but remarked that the Center is most effective bringing attention to the issues.'' Nearly all funders and colleagues were familiar with and spoke highly of the work in Nepal. ''It demonstrated change processes, the train of intervention, the change itself and needed follow-up.'' And one referred passionately to the ''practical, hands-on-quantifiable, usable-elsewhere, most effective work in Slovakia.''

With one exception (who did not think the Center should devote itself to international work at all), funders and colleagues felt that the international program could be more effective by ''working on a country by country basis.'' ''Legislative debates are needed; they have proven useful and educational elsewhere.'' One argued for taking more cases internationally through the European Court of Human Rights. And, returning to the issue of collaboration, one funder said that the Center has been least effective internationally ''when it goes off on its own initiatives that are not well-developed with other partners.''

Measuring success

Trustees, funders and colleagues were unaware of any systematic or specific efforts to measure the Center's success. All agreed, however, that measurements and benchmarks will be important moving forward. Some said, ''the hard data—what's quantifiable—is the easy part—number of cases won, number of cases lost.'' What's harder, but equally valid is the soft data—the gnalitative—which takes note of ''laws changed (although perhaps not immediately), lives improved, learnings which help the Center in other cases.'' ''If we lost, did we educate, create a precedent?'' There was strong consensus overall that as new strategies are developed,they must be evaluated against the Center's vision.

Substance guiding future strategy

Several Trustees identified the ''shoring up of favorable state constitutions'' as core to the domestic work ahead. They also want the Center to ''identify trends.'' Funders and colleagues looked for a more proactive role around the intersection of needs, e.g., RR and HIV/AIDS. Again, they stressed network building (domestically and overseas), collaboration and outcome oriented strategies rather than identifying specific goals, litigation or issues per se (as requested by the interviewer). They also expressed their belief that new leadership at the Center would embrace these tactics.

Domestic and International programs informing each other

Trustees were not sure how the domestic and international programs could inform or better inform each other, but they were quite insistent that it needs to occur. They do not know the frequency of interchange between the two staffs, although they assume that there is some and that there should be more.

Funders and colleagues spoke about thinking collectively with other groups to move the agenda forward, broadening the discussion well beyond the Center staff. A greater

awareness of what others are doing nationally and internationally ''can make us all more effective as we focus on what each does best.'' Most talked of identifying ''cross country issues,'' where both domestic and international could bring experience and expertise to bear, e.g., medical abortions, access to various forms of contraception, RR and HIV/AIDS. Said one ''be more clear about the connection between global and national. Look at the US impact globally.''

Race and Ethnic Discrimination as a Program Component

All study participants recognized that minorities and the poor are underserved in RR and HR. How this should factor in to the Center's program development, non could specifically say.

Domestic Program

Expanding domestic litigation beyond abortion?

The Trustees believe that abortion is still the key issue. But many also think that the Center should ''move beyond'' and address linked issues. They cited EC, HIV/AIDS, work, with teens, and family planning ''wherever there are legal issues (e.g., women denied prenatal care.)'' ''If Medicare funding changes, will there be a legal issue there? Is there a legal issue around the misinformation around abortion on the government website?'

Trustees have a deep concern that the image of the Center is ''only around abortion'' and believe that image must change, so that the public has a greater understanding of the overall impact on women's lives of what the Center does. One suggested that every time the Center is litigating a case, there be a full explanation of how the case fits into the larger context.

One Trustee believes that Roe v. Wade could be overturned and that the Center should begin now to develop strategy. Another said, ''If it is overturned, we'll know in advance and have time. We need to keep the thought in play, but we can't focus completely on it.'' Most felt that Roe itself would remain intact, but several concurred that, given the current political climate, its impact could be gutted.

Only two funders commented on Roe v. Wade. One said, ''it's not going to be overturned, but everything else will be. Therefore, look to work at the state level.'' Another stated: ''We need a serious analysis of the decision and come out with an opinion whether or not to continue to defend it. There are lots of weaknesses in the legal approach to Roe v. Wade. If it is flawed, we need to come up with a remedy. Is the Center satisfied that it can continue to defend it? Commenting on other issues, one funder commented: ''Look at the things that are winning and advancing. What is the principle that appeals and the legal strategy that can be derived and applies?'' Asked one colleague: ''Would the Center take up a broader rights issue, e.g., women's access to the full array of health services and gender choice and what that means for women's advancement in society? Who is active on college campuses and universities—there is a role here that needs to be filled.''

Other Strategies To Make Forward Progress in the Courts

Most Trustees felt that there was nothing to be learned from the Conservative Right ''because they just play a different game.'' Another, however, remarked, ''We're not vocal enough. People pay attention to the loud voices. We have to fight harder, be a little dirtier. Be graphic and show all the roadblocks.'' Said yet another, ''We should shine a bright light on the U.S. internal policies.''

There were no specific strategies suggested for succeeding in non-litigation areas, but many Trustees felt that the Center should be thinking in terms of education. ''Young women don't know what they are losing.'' ''Abortion is a medical procedure and all medical students who enter the OB/GYN specialty should be required to learn the procedure. Medical school curricula must address this.'' All agreed that collaboration is a strategy that the Center must use. Law schools, bar associations, universities, the Alan Guttmacher Institute, and the Brookings Institution were suggested as potential partners.

Funders and colleagues said: ''Keep fighting.'' They returned, yet again, to the issue of collaboration and while most did not identify specific partners (''other mainstream human rights groups''), they urged working together. One quite specifically said ''the Center and the ACLU should work reach out together to clergy, so that there are religious voices for choice—so that we're not called 'barbaric, irreligious, immoral'—we need to have the ethical leaders of our society with us at press conferences.'' Another noted that the ''litigation messages need to be coordinated'' and went on to say ''litigation alone is not going to carry the day. It's also how to position and leverage the court cases, so that the Center can do its long-term strategy. It's very hard to think that way when you're preparing a brief at 120 mph.''

International Program

Global, Political, Health-Related Factors Driving Scope and Direction of International Work

Most Trustees felt that they did not know enough to comment on the direction of the international work, except to say ''helping NGO's understand and implement their laws seems appropriate.'' One with a deeper knowledge of the international scene remarked: ''There's a need for a catalyst in developing countries. Help the women in Eastern and Central Europe get their laws enforced and that new laws don't violate basic human rights. The Center can be a catalyst rather than an active litigant.'' Another said, ''Step up the international work and link it with the domestic. The US domestic policy is affecting international programs, and we need to link with other US organizations and do advocacy, as well as testify how the US is affecting the health of women. We also need to train NGO's in developing countries to make their concerns known.'' ''Do more and link more with other HR and RR groups.''

Funders and colleagues say that ''one size does not fit all'' and that the Center needs to do a quick assessment on the work already done and make a long-term commitment in a few key places, where they can support and transfer skills to in-country advocates, rather than coming up with an overall rationale.'' ''Choose litigation where it will work.'' ''It is more important for the ILP to choose well than it is for domestic—pick certain countries because they're key priority areas, or long-term relationships, or because—you can leave something behind.'' ''Make smart political judgments.'' ''Collaborate with NGO's.'' Said one, ''Push the expertise down and out.''

One interviewee talked at length about the need for developing contacts within the European Union because ''there is no real debate in Europe on abortion and, there is funding available.'' Noted one colleague, ''All these factors (i.e., global, political, economic and health-related) drive the scope and spectrum of the program, but it is how an issue is seen politically, socially and culturally that makes it a flashpoint and drives the work forward. Something often becomes a symbol and that's what you work with. The Center needs to be able to jump on these.''

Balancing Tensions in the Focus and Commitment of Resources

Once again, most Trustees felt themselves unequipped to talk about this. One said, however, that the Center ''should select issues such as abortion laws, violence against women, adolescent law, and a more minor role in genital mutilation, where we are better suited to be the data gatherers.'' Said another ''select the strategic issues, those that will command attention, linking RR and HR with rights of child/girl. The HR link is education and protection. The Center needs to bring out the whole discriminatory process against groups associated with AIDS and everyone with AIDS.''

Funders and colleagues noted that the Center cannot work at the ''wholesale'' (global) level, because the resources are not there. ''Track and report country by country, within the context of all other international agencies working in these countries.'' Several commented ''it's not an 'either/or.'' Both the human rights approach and the comparative legal approach have merit and must work together. ''One creates an opening and the other backs it up.'' No one wanted to see the Center locked into mega projects, preferring ''prioritized focus where you can make an impact'' and staying ''nimble around opportunities.''

Asked one: ''Has there been a mapping of pro-Choice groups in various, parts of the world, because donors need to know who they are and how the Center can serve as a backstop?''

ORGANIZATION AND OPERATIONS

Most Trustees said that they really did not know enough to comment on the organization and operations. All expressed their pleasure with new Center leadership. Several voiced concern about the expense of the Washington, DC office and wondered aloud about its role and necessity. Most are concerned about Center communications. They want more and better coverage in the press. Several commented that there needs to be ''rigorous media training for the main spokespeople.''

When it came to talking about the Board of Directors itself, the operative word is more.

Trustees expressed a desire for: A bigger Board; more people on the Board with money and access to money; more lawyers on the Board; more younger people (especially women) on the Board; a few more doctors; and more international representation.

They also talked about the need for substantive Board education, more effective and efficient Board Meetings and training in their fund-raising role. Most recognized that they could indeed play a much more active role for the Center and be of greater assistance with education and training than they have been in the past.

Funders and colleagues could not comment on the Board, but they spoke highly of staff. One said, ''They are a precious resource with skill and focus and 'on the attack.'' Another said, ''Given the importance of collaboration in moving forward, it is the bridging skills that may need strengthening. And, you may need some on-the-ground communications/community people.'' Yet another spoke of the need for ''better coverage in the international press.'' Another suggested that there is ''a role for a broader education program and perhaps putting more resources into advocacy, public education, media.''

One colleague did suggest that, in terms of structure, the Center needs a working i.e., ''giving and getting,'' Board and another entity composed of ''non-traditional allies—Fortune 100 CEO's, heads of universities,

heads of major religious denominations'' to give heft and an ethical imprimatur to its work.

FINANCIAL IMPLICATIONS

Money for new strategies

Trustees, funders and colleagues alike have no sense of how much money will be needed to finance new strategies. Several Trustees and one funder spoke of redirecting more, if not all, of the unrestricted money into the domestic program. Said one Trustee: ''The ratio should be 6:1 Domestic to International. It's where we need to focus our efforts.'' Most Trustees suspect that new strategies will have leaner resources with which to be implemented and therefore, the strategies will have to be ''very focused.''

Source(s) of money

All study participants concur that the source of future monies will need to be individuals. Funders said ''it's a tough time for us. Some have left the population field; some have been affected by the stock market. (We) don't see much new money and the existing money is shrinking.'' One funder pointed to a great deal of government funding available in Europe, should the Center choose to involve itself there.

Building capacity

Trustees worry about the age of individual donors. ''This is an area largely funded by donors over 60 years old. Where are the people in their 30's and 40's?'' They see a critical role for the Center's Board in attracting the next generation of donors who will keep the issues alive and fund them.

One colleague noted that ''the Center is way ahead of others in capacity building,'' and without offering any suggestions, is confident that funding will be found Funders, colleagues and Trustees expressed confidence and hope in the Center's new leadership and other staff (specifically, Development, Domestic and International Program leaders) to articulate the needs and to identify and solicit the funding necessary to carry the Center forward.

APPENDIX: CRAFTING A STRATEGY FOR THE NEXT FIVE YEARS—INTERVIEW GUIDE

Background

Describe current task, the link to prior strategic planning efforts, and coordination with the development audit

Clarify terms, language, jargon

Understand Interviewee's:—Experience and knowledge in this or related fields; and experience with and knowledge about the Center.

Reactions to White Paper

Mission and vision

What does the Center do that differentiates it from other organizations and individuals?

What have been the Center's emphases in the ''mission and values'' statement in the last 5 years?

How would you articulate a broad vision for the next 5 years? How will this affect: Scope of activities/projects/docket; size; ''Competitive advantage; and Image/reputation, etc.?

How will the Center involve and energize both internal and external constituents, in a new and/or expanded vision?

Strategy and Program

Overall

How would you assess the Center's progress to date?

What does the Center do well? Less well? Why?

What have been the essential components of the domestic and international programs?

Where/when has the Center been most effective? Least effective?

Where/when should the Center be more proactive?

How has the Center measured past success? How should the Center think about and measure future success?

What should be the substance guiding the future strategy?

Specific goals we should accomplish? (Identify)

Projects that we should undertake? (Identify)

Substantive issues we should address that we are not addressing now? (Identify)

Litigation we should pursue proactively. (Identify)

Other. (Identify).

How can the international work be more informed by the domestic work, and vice versa?

How should the Center's concern about race and ethnic discrimination factor into program development?

Specific (at a level of detail appropriate for the interviewee)

Should the Center expand the domestic litigation agenda beyond its primary focus on abortion?

Do clients have other issues that we should understand and pursue? If so, what are they?

While we have a broad set of abortion cases on our docket, do we run the risk of running out of interesting/effective strategies or losing our fenders' interest and support?

Do we need to develop a strategy now if Roe v. Wade is overturned?

Are there more important/different issues that we are missing because of our focus on abortion? Does this matter?

What other strategies can the Center pursue to make forward progress in the courts?

What are the programmatic components of a more comprehensive strategy?.

What can be learned from the Conservative Right as they pursue their multi-faceted strategies to change jurisprudence?

How can the Center succeed in non-litigation areas, e.g., education and training?

With whom can the Center collaborate, e.g., similar legal organizations, advocacy and policybased reproductive rights organizations, law schools, etc.?

What are the global political, economic, and health-related factors that drive the scope and direction of the international work?

How all of the different strategies required in different parts of the world recognizing that ''one size does not fit all?''

Given a rapidly changing world, where should the Center focus its work to be most effective and demonstrate results?

With whom should the Center collaborate?

How should the international program balance tensions in the focus and commitment of resources, e.g.,

''Promoting the application of international human rights standards to reproductive rights issues at global and national levels (human rights approach) vs. providing expertise on developing national-level legislation/policies (comparative legal approach)''?

''Focusing on certain core issues (abortion, quality of, care, safe pregnancy, etc.) vs. consistent strategies/activities (litigation, documenting violations, legislative reform)''?

''Wholesale (''global'') vs. retail (national-level) impact''?

''Locking ourselves into mega-projects vs. nimble and responsive to sudden opportunities.''

Organization and operations

What are the talents and resources-managerial, legal, programmatic, policy, political, communication, etc-that we need to pursue different strategies?

How should the Center shape the organization to support/implement new strategies and take advantage of new staff and Board leadership?

What additional structures and systems are needed to support the Center as it grows and evolves?

What are the talents, size, and mix of star and Board we need to successfully implement the new strategic plan? What does the transition look like?

Financial implications

(Not intended to be redundant with Development Audit questions.)

How much money is needed to finance the new strategies?

Could the Center redirect current unrestricted money to more effective new strategies?

What is the financial plan to support the new strategy?

Where will the money come from to fund our new vision/strategy/plan?

Who are the likely donors?

What is the timing?

What are the appropriate phases?

What might we be doing now to build capacity for the future?

TABLE OF ABBREVIATIONS AND GLOSSARY

General terms

Comparative Law—The study of legal standards from several countries or systems.

Customary Law, Customary International Norm—When there is a very consistent pattern among nations on a particular normative issue it is called a customary international law or customary international norm and it attains the force of international law—for example, that countries should outlaw executing mentally incompetent people or prohibit official torture.

Fact-finding—A research methodology employed to expose human rights violations, seek accountability from responsible parties, identify and secure a remedy for those whose rights have been violated, and help develop an effective advocacy strategy.

Jurisprudence—Law developed by judicial or quasi judicial bodies.

NGO—Non-governmental organization.

Norms (legal norms, international norms, hard norms, soft norms)—Legal standards, such as constitutional provisions or legislation. Hard norms are binding treaty provisions. Soft norms are the many interpretative and non-binding statements, for example by Treaty Monitoring Bodies; that contribute to an understanding of reproductive rights.

UN and regional instruments and bodies

African Charter on the Rights and Welfare of the Child—Regional human rights treaty protecting the rights of children in Africa.

Beijing Conference—1995 United Nations Fourth World Conference on Women: Global conference on women's human rights.

Beijing Platform for Action—Beijing Declaration and Platform for Action, United Nations Fourth World Conference on Women: Consensus document adopted by nations participating in the Beijing Conference.

Cairo Programme—Programme of Action of the United Nations International Conference on Population and Development: Consensus document adopted by nations participating in the International Conference on Population and Development.

CEDAW—Convention on the Elimination of All Forms of Discrimination against Women: International treaty codifying states' duties to eliminate discrimination against women.

CEDAW Committee—Committee on the Elimination of Discrimination against Women: UN body charged with monitoring states' implementation of CEDAW.

Children's Rights Convention (CRR)—Convention on the Rights of the Child: International treaty upholding the human rights of children.

Convention against Racial Discrimination—International Convention on the

Elimination of All Forms of Racial Discrimination: International treaty upholding individuals' human rights to be free of discrimination on the basis of race.

Economic, Social and Cultural Rights Committee—Treaty Monitoring Body that monitors state compliance with the Economic, Social and Cultural Rights Covenant.

European Convention for the Protection of Human Rights and Fundamental Freedoms—European treaty upholding the rights of the Universal Human Rights Declaration.

IACHR—Inter-American Commission on Human Rights: International body upholding the American Convention on Human Rights.

ICCPR—International Covenant on Civil and Political Rights: International treaty protecting individuals' civil and political human rights.

ICESCR—International Covenant on Economic, Social and Cultural Rights: International treaty protecting individuals' economic, social and cultural human rights.

ICPD Programme of Action—Programme of Action of the International Conference on Population and Development: Consensus document adopted by nations participating in the International Conference on Population and Development.

Treaty Monitoring Bodies (TMBs)—United Nations Treaty Monitoring Bodies refer to the six committees which monitor governmental compliance with the major UN human rights treaties. While the TMBs are not judicial bodies; they influence governments by issuing specific observations about states' progress and compliance with human rights obligations. Four committees also hear individual complaints.

Universal Declaration—Universal Declaration of Human Rights: UN human rights instrument at the foundation of modern international human rights law.

THE CENTER FOR REPRODUCTIVE RIGHTS BOARD OF DIRECTORS—PRIMARY AFFILIATION INFORMATION

Executive Committee Members

Nicki Nichols Gamble (Vice Chair), Former President and CEO, Planned Parenthood of Massachusetts

Francis W. Hatch, III (Vice Chair), Chairman, The John Merck Fund

Betsy K. Karel (Chair), Board Chair, Trellis Fund

Nancy J. Northup (Ex-Officio 1/13/03), President, Center for Reproductive Rights

General Members

Laurie G. Campbell (Treasurer and Chair of Finance Committee)

Jane E. Hodgson, MD, MS, FACOG, Founding Fellow, America College of Obstetricians and Gynecologists

Sylvia A. Law, Elizabeth K Dollard Professor of Law, Medicine and Psychiatry, New York University Law School

Marcie J. Musser, Vice President and Treasurer of the Board, General Service Foundation

Nafis Sadik, MD, Special Envoy for United Nations, Secretary General for HIV/AIDS in Asia and Pacific

Sheldon J. Segal, PhD, MD, FRCOG (Secretary), Distinguished Scientist, The Population Council

Marshall M. Weinberg, Board Member, American Jewish Joint Distribution Committee

DELUXE HOTEL

HON. WILLIAM J. JANKLOW

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. JANKLOW. Mr. Speaker, on August 12, 2003, the Deluxe Hotel, a small business in Woonsocket, South Dakota, commemorated 100 years of family ownership and operation of the hotel.

The hotel itself is an original structure built in 1883—two months before there was a town of Woonsocket and six years before South Dakota became a state—by railroad supervisor, Charles H. Prior and his wife. On August 12, 1903, Joseph Lane and Margaret Kirby Brown bought the hotel for $2,250 in cash plus a Springfield, South Dakota hotel valued at $1,500.

Currently, J.L. and Margaret Brown's granddaughter—Delores Brown Bissel—owns and operates the hotel. She was born in the hotel in 1926, and has been involved in its operation ever since. The descendants of Joseph Lane and Margaret Kirby Brown gathered in Woonsocket on August 2nd to commemorate 100 years of family and business history.

Family-owned businesses, such as the Deluxe Hotel, are the backbone of many small, rural South Dakota communities. I congratulate the Brown Family for this remarkable milestone, and hope that this longstanding contribution to the Woonsocket community and surrounding area will continue far into the 21st century.

TRIBUTE TO THE FANNIE E. RIPPEL FOUNDATION

HON. RODNEY P. FRELINGHUYSEN

OF NEW JERESEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today to honor the Fannie E. Rippel Foundation, a New Jersey philanthropic organization which is highly esteemed nationally and especially in the Northeast, and that will celebrate fifty years of grant making on December 11, 2003.

During the past five decades the Fannie E. Rippel Foundation has awarded grants amounting to more than $113 million and has demonstrated its continuing commitment to improving health care in our state and nation.

The Rippel Foundation, established under the will of Julius S. Rippel, provides funds to aid the aged and women of all ages, to aid hospitals and to support institutions involved in heart disease or cancer treatment and research.

In the past, for example, the Foundation has provided and furnished funds for the construction of or to aid in the erection of hospitals and provided funds for their equipment as well as hospital maintenance.

The Foundation has also supported humanitarian programs, emphasizing ethical issues in medicine, pastoral education, programs in rural health, better case and disease management. In particular, the Foundation has supported most generously women's health programs for elderly women with chronic conditions, academic and educational programs for women, and programs that promote better advocacy of women's health. The Foundation also stresses what is known as ''humanistic medicine,'' and advances the importance of belief, support, communications and relationships in the healing process.

Mr. Speaker, there is no doubt that each and every dollar the Fannie E. Rippel Foundation gives to a hospital or a medical research facility is much appreciated. And, we can all be grateful for the Foundation's efforts because of its dedication to helping under-served rural and urban populations, and its interest in changing the wellness behavior of people through research and preventive care.

Throughout the years, the Fannie E. Rippel Foundation has earned an incredibly positive reputation for the many generous acts of its Board of Trustees, Officers and Staff.

Mr. Speaker, I know that you join me and my colleagues in recognizing and honoring the Fannie E. Rippel Foundation for its outstanding services to humankind for fifty years, and I ask that you and all our colleagues extend sincere best wishes for a successful Rippel Foundation Reception on December 11, 2003.

INTRODUCING THE WAR PROFITEERING PREVENTION ACT OF 2003

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. EMANUEL. Mr. Speaker, I am proud to rise with Representatives DEFAZIO, and DELAURO as original cosponsors to introduce the War Profiteering Prevention Act of 2003. This is an identical companion to legislation introduced by Senators LEAHY, CLINTON, DURBIN and FEINSTEIN.

This bill closely resembles an amendment that I offered during consideration of the Iraq reconstruction bill. Unfortunately, the Rules Committee declined to allow debate on my amendment, which would have established tough criminal penalties for individuals who defraud the government involving contracts related to the war or reconstruction of Iraq.

As the government begins to spend the roughly $20 billion appropriated for rebuilding Iraq, it is essential that we protect these funds from waste, fraud and abuse. To that end, the War Profiteering Prevention Act establishes a maximum criminal penalty of 20 years in prison and fines up to $1 million for war profiteers and cheats who exploit the postwar relief efforts.

Unlike most nations where we send foreign aid, there is no functioning government in Iraq. While I believe the Coalition Provisional Authority is doing the best it can, it simply does not maintain the manpower necessary to adequately monitor reconstruction funds. Regrettably, a handful of politically connected corporations, including some with scandal-ridden business records, are taking advantage of this situation.

While anti-fraud laws protect against wasteful spending here at home, there are no such laws prohibiting war profiteering overseas. In response, my bill criminalizes overcharging taxpayers for any good or service with the specific intent to excessively profit from reconstruction. The legislation also prohibits fraud

and false statements in any matter involving a contract.

We need strong disincentives for those who defraud taxpayers. These controls must be in place now because criminal statutes cannot be applied retroactively. We cannot in good faith ask American families to sacrifice for postwar reconstruction and then allow so many others to unfairly profit at their expense.

Mr. Speaker, we must send a clear message that cheating U.S. taxpayers is completely unacceptable and will not go unpunished. For these reasons, I urge my colleagues to join me in supporting the War Profiteering Prevention Act of 2003.

RECOGNIZINIG THE ACHIEVEMENTS OF DR. ROBERT PAVLICA

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mrs. LOWEY. Mr. Speaker, I rise today to recognize the great contributions to education made by Dr. Robert Pavlica. I also wish to congratulate him on being one of only six teachers from around the world, and one of only two from the United States, to be honored by INTEL. Innovation in Education with the prestigious 2003 ''Excellence in Teaching Award.'' He received this accolade for his pioneering development of the ''Authentic Science Research in the High School'' program.

Dr. Pavlica, a White Plains, NY, resident, who has a Ph.D. in biochemistry, along with master's degrees in philosophy, cell biology, and biology, has been inspiring students as a science teacher at Byram Hills High School in Armonk, NY, for the past 33 years. In 1990, he began teaching scientific research after one of his students asked for his help in pursuing an independent research project.

This would lead Dr. Pavlica to create the ''Authentic Science Research in the High School'' program, a three-year science research course, in which sophomores, who elect to participate, are instructed in the methods and processes of research. This culminates in each student conducting an original research project into an area of particular interest to the student. To help guide his or her work, each student is mentored by a respected scientist in the student's field of research.

This program has been enormously successful. Since its creation little more than a decade ago, thirty-nine of Dr. Pavlica's students at Byram Hills have become semifinalists for the Intel Science Talent Research Award, formerly known as the Westinghouse. Amazingly, eleven of his students have even reached the finals of the esteemed competition. This program has also prepared many more students for the arduous research that they will face in college.

Dr. Pavlica has taught his techniques to numerous educators, who wish to replicate his success in getting students excited about scientific research. Presently, over 170 school districts throughout the country have instructors who are using his program. In fact, over seventy percent of public and private high schools in Westchester County, NY, now employ the program.

The success of the program at Byram Hills has been mirrored in these schools, as well. Indeed, in 2002 and 2003, roughly forty percent of all of New York State's INTEL Science Talent Search semifinalist awards went to students who were taught using the ''Authentic Science Research in the High School'' program.

I am truly honored that I have this opportunity to congratulate Dr. Pavlica on his well-deserved award and to thank him for helping so many students in Westchester and around the country learn more about science and the potential that lies within them.

PROTECTING PUBLIC SAFETY IS AT THE HEART OF GUN PURCHASE BACKGROUND RECORDS

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. WOLF. Mr. Speaker, I want to provide some additional information to follow up on my RECORD statement of November 25 regarding the provision in the FY 2004 omnibus spending bill which would require the destruction of background records checks 24 hours after a gun purchase.

I submit for the RECORD letters from two law enforcement officers groups who share my deep concerns about the impact on public safety of changing the current 90-day period for retaining data related to firearms purchase and approval. The Federal Bureau of Investigation Agents Association, wrote: ''The more the retention period is reduced, the more difficult it would become to use the paperwork to investigate or prosecute crimes related to the use of sales of the firearms in question. Any such efforts can only complicate the already difficult task of law enforcement and jeopardize public safety.''

FEDERAL BUREAU OF INVESTIGATION,
AGENTS ASSOCIATION,
November 25, 2003.

Re Issues Related to Retention of Firearms Paperwork.

Hon. FRANK WOLF,
Chairman, Subcommittee on Commerce, Justice, State, and Judiciary Appropriations Committee, H–309 Capitol Washington, DC.

DEAR CHAIRMAN WOLF: On behalf of the FBI Agents Association (FBIAA), I am writing to express the FBIAA's concerns regarding the possibility of an appropriations rider that might reduce the current 90-day retention period for data related to firearms sales and approval. The FBIAA is a non-governmental professional association with a membership of nearly 9,000 current and more than 2,000 retired FBI agents nationwide; neither the FBIAA nor I speak for the official FBI.

While the FBIAA certainly understands and appreciates the civil liberties concerns related to firearms registration and the retention of paperwork related to background checks, we think the current 90-day retention period strikes the proper balance between civil liberties and crime control. To date, we are not aware of any problems associated with the current system. The more the retention period is reduced, the more difficult it would become to use the paperwork to investigate or prosecute crimes related to the use or sales of the firearms in question. Any such efforts can only complicate the already difficult task of law enforcement and jeopardize public safety.

We would be happy to further communicate with you on this or any other issue. As Congress moves forward in the appropriations process, we ask that you thoroughly review any rider attempt that may limit the ability of law enforcement officers to perform effective, fair, and timely investigations.

Very truly yours,
FRED BRAGG, *President.*

The International Association of Chiefs of Police, which first raised concerns about changing the time background records are maintained in a letter in 2001, continues to stand by that statement, which said: ''We believe that decreasing the amount of time the purchase records are kept will weaken the background check system and allow more criminals to illegally obtain weapons.''

INTERNATIONAL ASSOCIATION OF
CHIEFS OF POLICE,
Alexandria, VA, September 4, 2001.

Mr. TIMOTHY MUNSON,
Section Chief, Federal Bureau of Investigation, Module A–3,
Clarksburg, WV.

DEAR MR. MUNSON: The International Association of Chiefs of Police (1ACP) appreciates the opportunity to comment an the proposed rule that would reduce the amount of time that the Federal Bureau of Investigations (FBI) maintains National Instant Criminal Background Check System (NTCS) records on approved purchases from 90 days to one business day. The IACP is world's oldest and largest association of law enforcement executives with more than 18,000 members in 100 countries.

The IACP believes that the 90-day retention period should not be shortened. Decreasing the retention period of these records to one business day will not provide law enforcement with sufficient time to perform the necessary audits on the NCCS system as established by the Brady Act.

In March 1999, the Department of Justice issued a proposed rule to (adore the retention period from 180 days to 90 days. They concluded that 90 days was the ''shortest practicable period of time for retaining records of allowed transfers that would permit the performance of basic security audits'' of the NICS system. However; the Justice Department also acknowledged that law enforcement and the FBI's Advisory Policy Board had instead sought to increase the record retention period from 180 days to one year,

The FBI has stated than it requires at least 90 days to audit the records in order to ensure the accuracy and legitimacy of background checks performed by federally-licensed firearms dealers. These audits allow the FBI to search for patterns of fraud and abuse by both gun dealers and purchasers. Through these audits, the FBI can identify instances in which the NICS system is used for unauthorized purchases such as gun dealers having background checks on people other than gun buyers. In addition, audits can also help determine if gun buyers have submitted false identification in order to thwart the background check system. To run these crucial audits, the FBI needs the records on both approved and denied purchases. If these records are quickly destroyed, it will be much more difficult for law enforcement to investigate and prevent abuses of the background check system.

We believe that decreasing the amount of time the purchase records are kept will weaken the background check system and allow more criminals to illegally obtain weapons. In addition, it is important to note that there have been no allegations that any information retained in the records has been misused.

The background checks performed under the Brady Act have proven to be a vital part of our nation's crime control efforts. Since its enactment, the Brady Act has prevented more than 650,000 felons, fugitives and other prohibited persons from purchasing handguns. The IACP believes that no action should be taken that would damage the demonstrated effectiveness of the current background check system.

Thank you for considering our views on this matter.

Sincerely,

BRUCE D. GLASSCOCK,
President.

It is important to note that the letters from the FBI Agents Association and the International Association of Chiefs of Police both indicate that they are not aware of any allegations of misuse of the information retained in the gun purchase records.

There is another concern which I am compelled to share regarding the public safety aspect of allowing law enforcement personnel the necessary time needed to track down would-be criminals who try to purchase guns. I also enclose for the RECORD an FBI report on the growing violent gang activity, not only in the District of Columbia and the northern Virginia region, but across our nation. It is sobering. This a very serious—and growing—problem. While the FBI report focuses specifically on Mara Salvatrucha, more commonly known as MS–13, numerous gangs have been infiltrating our country in recent years and indications are that few communities are spared.

Gang members thrive on terrorizing communities through random acts of violence. They steal. They kidnap. They extort. They torture. They murder. Obtaining guns and other weapons are part and parcel of their operations.

While we may not know for certain how the 24-hour records destruction provision will impact criminal gang members who are terrorizing innocent people in northern Virginia and other areas of the country, law enforcement officers on the front lines of fighting crime certainly have a strong belief that reducing the time to check for illegal gun purchases could hurt their ability to protect public safety.

In these times of fighting not only international terrorism but violent gang activities in our local communities, shouldn't we be making public policy that gives law enforcement personnel the assistance they need to thwart the gun purchases of suspected terrorists and gang members rather than giving the advantage to the criminals?

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, November 12, 2003

MARA SALVATRUCHA 13

Mara Salvatrucha 13, commonly referred to as ''MS,'' ''MS–13,'' ''MSX3,'' or ''MSXIII,'' was designated as a National Gang Strategy priority target group of the Federal Bureau of Investigation in 1997 due to its propensity for violence and rapid growth. Originally composed of individuals of El Salvadorian heritage, MS–13 now consists of numerous, loosely affiliated autonomous cliques, some of which are highly structured and organized, while most are loose knit with very little formal structure. Although MS groups generally function independently of each other, they pose a serious threat in the United States and abroad due to their propensity for extreme random violence and involvement in myriad criminal activities. The level of criminal sophistication and networking by certain clique members will have direct impact on the types and complexity of the crimes committed by that clique. MS–13 cliques will engage in varying degrees of drug trafficking, theft, prostitution, and violent criminal activity such as murder, extortion, kidnaping, and drive-by shootings to support their criminal activity and protect their turf from rival gangs. Violence is an intimate part of being a gang member. Some MS–13 members have conducted counter-surveillance on law enforcement personnel to obtain license plate numbers of officers' vehicles.

MS–13 has greatly expanded from its origins in southern California. Migration of MS–13 gang members, based on several factors, has resulted in the emergence of MS–13 cliques in numerous jurisdictions across this country. In 1992–93, MS cliques were established in Los Angeles, Northern Virginia, and Long Island, New York. Today, MS–13 cliques have been confirmed or suspected of operating in at least 31 states and the District of Columbia with an estimated 8000 members. In the mid-1990s, MS–13 members who where deported from the United States, established cliques in El Salvador, Honduras, and Guatemala. Today, in El Salvador and Honduras alone, an estimated 50,000–70,000 gang members are divided into two major gangs, MS–13 and 18th Street. These gangs pose the greatest criminal threat in each country.

Over the past several years, MS–13 has grown significantly on the East Coast. Many jurisdictions throughout the Washington, DC, metropolitan region, have reported MS–13 members involved in criminal activity. In 1992, three MS–13 gang members from Los Angeles, California, were identified in northern Virginia by law enforcement authorities. Today, an estimated 30 MS–13 cliques and 3000 gang members are active throughout the region. The greater Washington, DC area, and specifically northern Virginia, is now a major hub of MS–13 gang activity. Fairfax County, Virginia, Police Department reports that MS–13 is responsible for, or suspected of, 95 percent of all gang-related crimes (armed robbery, theft, car theft, drug dealing, rape, shootings, and assaults with a baseball bats, knives, and machetes, etc.) committed in the county.

Heavy concentrations of MS–13 cliques have been documented in Long Island, New York, Massachusetts, New Jersey, and North Carolina. Travel by MS–13 members between these regions, as well as to and from, Texas, California, and other regions, has been documented. MS–13 gang members travel to other communities to support and participate in MS–13 gang activities, to flee prosecution in criminal investigations, and for social and fraternal motives. Approximately 30–40 MS–13 gang members from Massachusetts moved into the Lakewood, New Jersey area and established a clique that appears to be involved in trafficking cocaine and weapons. The Washington, DC region, specifically northern Virginia, is a primary destination for MS–13 gang members. In one notable event, MS–13 gang members traveled from northern Virginia to Hempstead, New York, and committed a drive-by shooting. The motive for the shooting was simply to demonstrate to local Hempstead MS–13 cliques the bravado necessary to intimidate and combat rival gangs.

Within the Washington, DC region, formal multiple-clique meetings have occurred in attempts to organize area cliques however, inter-clique disputes have prevented any such coordination, but these meetings enabled relationships to form between members of multiple cliques. In the long term, it is reasonable to predict that this is an evolutionary step towards a more formalized central structure.

MS–13 has specific identification signs, symbols, and rules. However, certain rules may vary between cliques and may change depending on the situation. One commonality between all MS–13 cliques, in the United States and Central America, is that the gang survives and thrives due to aggressive local recruitment efforts. Growth in numbers and strength is MS–13's primary goal. For instance, MS–13 gang members must have some Latino heritage, however, there are now ''farm'' cliques associated, with the MS–13 that are not Latino. Cliques include juvenile members. The gang is known to recruit Hispanic juveniles as young as elementary school age for membership.

It is anticipated that recent gang suppression efforts in Central America will increase legal and illegal immigration of MS–13 gang members to communities with existing MS–13 populations in the United States. Based on current trends and patterns of MS–13 activity in the United States and Central America, it is predictable that MS–13 will continue to spread and grow in numbers across this Nation, including the Washington, DC region. Violent crime associated with continued expansion of MS–13 is most predictable.

Only through nationally–focused investigations calling upon Federal law, will there be a cessation to MS–13's continuing growth in America.

HONORING MR. ALFREDO B. LAGMAY, SR.

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. ROYCE. Mr. Speaker, I rise today to mourn the loss and honor the life of Mr. Alfredo B. Lagmay, Sr.

Mr. Lagmay was truly one of America's heroes. Mr. Lagmay came to this country from his native Philippines in 1918. He later went on to serve in our armed forces, where he was a prisoner of war (POW), a survivor of the Death March of Bataan, and a veteran of World War II and the Korean War.

After his distinguished 31-year career in the United States Military where he was awarded the Bronze Star, Mr. Lagmay moved with his family to Orange County. Mr. Lagmay was a valued member of the community and served as an inspiration to all.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Alfredo Lagmay. I am exceedingly proud to honor him for his courageous service to our country and for the honorable life he led as a husband, father, grandfather, and great-grandfather.

IN MEMORIAM OF CPL. ROBERT ''BOBBY'' D. ROBERTS

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. MICA. Mr. Speaker, it is with the deepest sadness that I report the death of Corporal Robert D. Roberts, a native of Winter Park, Florida, who died in service to our Nation on November 22nd while serving in Iraq.

I extend my deepest sympathy to his widow Jill, his 3 year old son Jacob, and his family. Bobby, as he was affectionately known, died

in a tragic accident as he was fulfilling his military obligation to our Nation.

Cpl. Roberts was a member of the United States Army and served in the position of Tank Gunner. His devotion and commitment to our U.S. Military were legendary among the family members he leaves behind. Prior to his death, he personally reiterated to his family the importance of his mission and his dedication to serving our Nation in this time of international conflict.

I am most saddened to lose this dedicated American soldier, a Winter Park native and the son-in-law of a wonderful friend, Karen Mendenhall. During services that were conducted at the First Baptist Church of Oviedo on Friday, December 5th, Bobby was remembered by his brother and parents as a wonderful member of the family, a devoted Christian and a committed American soldier.

We extend our deepest sympathies to Cpl. Roberts' parents, Chuck and Joann, on the loss of their beloved son. We commend his brother, Lance Corporal Chris Roberts, for his courage and dedicated service in the United States Marine Corps. And to all those in Bobby's family who have suffered this great loss, we give the eternal thanks of a grateful Nation.

TRIBUTE TO CHUCK ANDERSON OF RAYTHEON

HONORABLE JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. KOLBE. Mr. Speaker, I rise today to enter into the CONGRESSIONAL RECORD a tribute to Charles D. ''Chuck'' Anderson, Raytheon's Vice President, Air-to-Air Missiles in Tucson, Arizona who is retiring after over 40 years of dedicated and faithful service to the defense of our great Nation.

From the time Chuck was a boy, his patriotic fervor and love of country formed the foundation for all he has accomplished to date. In the 1950s, when the face and ambitions of our American youth began to change, Chuck chose the difficult path and served with the California National Guard as a paratooper. After his National Guard tour, Chuck selected the toughest, most disciplined course of study earning a Bachelor of Science degree in Mathematics and Physics from California State Polytechnic University in 1961. In 1972, he received a Master of Science degree in Systems Engineering at the University of Southern California.

Chuck, the man, is more than just America's premier designer and builder of our most capable weapons. He is a true patriot and champion for the American dream. When asked to perform in the hustle and bustle of Corporate America, with the ever present hunger for profits and earnings, Chuck always asked one question first, ''Is this good for the Warfighter . . . will this save American lives on the battlefield?'' By that creed he lives his life, both professionally and personally. During his quarterly, ''All Hands'' Leadership meetings, Chuck always ended his session with a 30 minute discussion on what it means to be an American. Love of Country, Love of Freedom were always the major themes of his closing comments. This theme in particular, defines Chuck Anderson and serves as the driving force behind this American Patriot.

Apart from his role as America's ''Missileman,'' Chuck took an active leadership role in one of this country's premier Leadership Learning Laboratories, The Boy Scouts of America. As an Adult Leader, Chuck imparted his wealth of lifetime experiences, patriotism, and charismatic leadership to this unique group of American youth. The leaders of tomorrow will long remember Chuck's lessons of life, pursuit of excellence, and responsibility. When he was not paying back to the country he loves, Chuck took time to revel in his two greatest hobbies: flying antique model airplanes and listening to American Rock and Roll. In fact, his knowledge of Rock and Roll is so great, Chuck continues to author numerous missives titled, ''This Date in Rock and Roll History.''

Chuck Anderson is one of the select few that has consistently given and sacrificed for all that is good for America . . . and the generations of youth he has touched and continues to touch will pass on their strong character and moral fiber for generations to come so that our country remains a beacon of freedom and leadership throughout the world. I am certain that my colleagues will join me in wishing Chuck and his wife Carolyn all the best as they venture into the next chapter of their lives.

RECOGNIZING WORLD AIDS DAY

HON. CIRO D. RODRIGUEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 8, 2003

Mr. RODRIGUEZ. Mr. Speaker, I rise today to acknowledge Monday, December 1, 2003 as World AIDS Day. Worldwide 42 million people are living with HIV/AIDS, including 3.2 million children under the age of 15. AIDS kills more people worldwide than any other infectious disease and infects 15,000 people each day.

World AIDS Day was established in 1988 to raise awareness about HIV/AIDS and tackle the tough issues related to the disease. This year the focus is on stigma and discrimination, two major obstacles in preventing HIV/AIDS.

When people living with HIV/AIDS are discriminated against they are less likely to acknowledge their disease or seek treatment. They may be denied housing, employment, or health care services. We must do everything possible to reduce the stigma associated with HIV/AIDS through worldwide and local efforts.

Congress can fight stigma and discrimination by continuing monetary support for the International AIDS Vaccine Inititaive (IAVI) and the Global Fund to Fight AIDS, Tuberculosis, and Malaria. IAVI focuses on accelerating scientific progress, mobilizing public support through issue advocacy and education, encouraging industrial involvement in AIDS vaccine development, and working to ensure global access to a vaccine. I greatly support this program and urge the largest funding amount.

Congress should provide the maximum allowable contribution of $3 billion to the Global Fund to Fight AIDS, Tuberculosis, and Malaria. The Fund makes grants in developing countries aimed at reducing the number of HIV, tuberculosis, and malaria infections, as well as the illness and death that result from such infections. Over five years, the Fund hopes to fund anti-retroviral therapy for 500,000 patients over five years and to be supporting programs to provide care for 500,000 children orphaned by AIDS.

However, these large international organizations would be meaningless without people at the local level to provide care and support to those living with HIV/AIDS. In Texas, 60,078 people are living with HIV/AIDS, and many groups and individuals are working hard to address their needs.

I would like to recognize the efforts of the following people and organizations for their contributions in combating the AIDS epidemic:

Charlene Doria Ortiz, Executive Director—Center for Health Policy Development; Dr. Fernando Guerra, Director of Health—San Antonio Metropolitan Health District; David Ewell, Executive Director—San Antonio AIDS Foundation; Yolanda Rodriguez Escobar, Diector—Mujeres Unidas Contra El SIDA; Pastor E. Butch Seward, Chairman of the Board and Michelle Durham, Executive Director—Black Effort Against the Threat of AIDS (BEAT AIDS, Inc.).

By providing medical care, educational programs, housing and financial assistance, caseworkers to help with government benefits, and support groups, these programs help those living with HIV/AIDS get through each day. I am proud to recognize them for their year round and tireless commitment to fighting HIV/AIDS.

We may only recognize World AIDS Day once a year, but by providing adequate funding and support for programs that encourage treatment and education we can create lasting effects on the fight against AIDS.

Daily Digest

HIGHLIGHTS:

First Session of the 108th Congress adjourned sine die.

Senate

Chamber Action

Routine Proceedings, pages S16081–S16215

Measures Introduced: Twenty-five bills and five resolutions were introduced, as follows: S. 1980–2004, and S. Res. 279–283. **Pages S16119–20**

Measures Reported:

Report to accompany S. 1522, to provide new human capital flexibility with respect to the GAO. (S. Rept. No. 108–216)

Report to accompany S. 1612, to establish a technology, equipment, and information transfer within the Department of Homeland Security. (S. Rept. No. 108–217)

S. 156, to amend the Atomic Energy Act of 1954 to reauthorize the Price-Anderson provisions, with amendments. (S. Rept. No. 108–218)

S. 1401, to reauthorize the National Oceanic and Atmospheric Administration, with amendments. (S. Rept. No. 108–219)

S. 1879, to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards. (S. Rept. No. 108–220)

Pages S16118–19

Measures Passed:

Improved Nutrition and Physical Activity Act: Senate passed S. 1172, to establish grants to provide health services for improved nutrition, increased physical activity, obesity prevention, after agreeing to the committee amendment in the nature of a substitute. **Pages S16094–S16100**

Breast Cancer Postage Stamp Extension: Senate passed S. 2000, to extend the special postage stamp for breast cancer research for 2 years. **Page S16159**

Social Security Protection Act: Senate passed H.R. 743, to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, after agreeing to the committee amendment in the nature of a substitute, and the following amendment proposed thereto: **Pages S16159–96**

Frist (for Grassley) Amendment No. 2227, to provide for a manager's amendment. **Page S16142**

Welcoming Public Apologies: Senate agreed to S. Res. 237, welcoming the public apologies issued by the President of Serbia and Montenegro and the President of the Republic of Croatia and urging other leaders in the region to perform similar concrete acts of reconciliation. **Pages S16196–97**

Congo Basin Forest Partnership Act: Committee on Foreign Relations was discharged from further consideration of H.R. 2264, to authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and the bill was then passed, after agreeing to the following amendments proposed thereto: **Page S16197**

Frist (for Alexander) Amendment No. 2228, to strike the authorization of appropriations for fiscal year 2005. **Page S16142**

Frist (for Alexander) Amendment No. 2229, to amend the title. **Page S16142**

District of Columbia Budget Autonomy Act: Senate passed S. 1267, to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, after agreeing to the committee amendment, and the following amendment proposed thereto:

Pages S16197–S16200

Frist (for Levin) Amendment No. 2230, to provide for metered cabs in the District of Columbia. **Page S16142**

Trafficking Victim Protection Reauthorization Act: Senate passed H.R. 2620, to authorize appropriations for fiscal years 2004 and 2005 for the Trafficking Victims Protection Act of 2000, clearing the measure for the President. **Pages S16200–01**

Arrest of Mikhail B. Khodorkovsky: Senate agreed to S. Res. 258, expressing the sense of the

Senate on the arrest of Mikhail B. Khodorkovsky by the Russian Federation. **Pages S16201–02**

Congratulating the San Jose Earthquakes: Senate agreed to S. Res. 280, congratulating the San Jose Earthquakes for winning the 2003 Major League Soccer Cup. **Page S16202**

Prevent All Cigarette Trafficking Act: Senate passed S. 1177, to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, after agreeing to the following amendment proposed thereto: **Pages S16202–12**

Frist (for Hatch) Amendment No. 2231, to make certain improvements to the bill. **Page S16142**

Continuing Appropriations/Technical Corrections: Senate passed H.J. Res. 82, making further continuing appropriations for the fiscal year 2004, clearing the measure for the President. **Page S16212**

U.S. Senate-China Interparliamentary Group: Senate agreed to S. Res. 282, providing the funding to assist in meeting the official expenses of a preliminary meeting relative to the formation of a United States Senate-China interparliamentary group. **Pages S16141, S16212–13**

Child Protection: Senate agreed to S. Res. 283, affirming the need to protect children in the United States from indecent programming. **Pages S16141–42, S16213**

Printing Authority: Senate agreed to H. Con. Res. 345, authorizing the printing as a House document of the transcripts of the proceedings of ''The Changing Nature of the House Speakership: The Cannon Centenary Conference'', sponsored by the Congressional Research Service on November 12, 2003. **Page S16213**

Relative to the Death of the Honorable Paul Simon: Senate agreed to S. Res. 281, relative to the death of the Honorable Paul Simon, a former Senator from the State of Illinois. **Pages S16141, S16213–14**

Agriculture Appropriations Act (Omnibus Appropriations)—Conference Report: Senate began consideration of the conference report to accompany H.R. 2673, making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2004. **Page S16083**

A motion was entered to close further debate on the conference report and, notwithstanding the provisions of Rule XXII of the Standing Rules of the Senate, a vote on cloture will occur on Tuesday, January 20, 2004 at 3 p.m. **Page S16083**

A unanimous-consent agreement was reached providing for further consideration of the conference report at 12 noon, on Tuesday, January 20, 2004. **Page S16214**

Poison Control Center Enhancement and Awareness Act Amendments: Senate concurred in the amendment of the House to S. 686, to provide assistance for poison prevention and to stabilize the funding of regional poison control centers. **Page S16201**

Pension Funding Equity Act—Agreement: A unanimous-consent agreement was reached providing that at a time determined by the Majority Leader, after consultation with the Democratic Leader, Senate begin consideration of H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and that the only amendments in order relate to the pension discount rate, deficit reduction contribution relief, and multi-employer plan relief. **Page S16150**

Authority for Committees—Agreement: A unanimous-consent agreement was reached providing that notwithstanding the sine die adjournment of the Senate, all committees were authorized to file legislative and executive reports during the sine die adjournment of the Senate on Friday, January 9, 2004, from 10 a.m. until 12 noon. **Page S16159**

Appointment Authority—Agreement: A unanimous-consent agreement was reached providing that notwithstanding the sine die adjournment of the Senate, the President of the Senate, the President pro tempore, and the Majority and Minority Leaders be authorized to make appointments to commissions, committees, boards, conferences, or interparliamentary conferences authorized by law, by concurrent action of the two Houses, or by order of the Senate. **Page S16159**

Signing Authority—Agreement: A unanimous-consent agreement was reached providing that during the sine die adjournment of the Senate, the Majority Leader be authorized to sign duly enrolled bills or joint resolutions. **Page S16159**

Nominations—Agreement: A unanimous-consent agreement was reached providing that during the sine die adjournment of the Senate, all nominations remain status quo with certain exceptions. **Page S16150**

Nominations—Agreement: A unanimous-consent agreement was reached providing that the nomination of Rhonda Keenum, of Mississippi, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Services, be jointly referred to the Committee on Commerce, Science, and Transportation, and the Committee on Banking, Housing, and Urban Affairs. **Page S16158**

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaties:

Additional Protocol to Investment Treaty with Romania (Treaty Doc. No. 108–13), and

Taxation Convention with Japan (Treaty Doc. No. 108–14)

The treaties were transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed. **Pages S16158–59**

Messages From the President: Senate received the following message from the President of the United States:

Transmitting, pursuant to law, the Annual Report of the Railroad Retirement Board for the fiscal year ending September 30, 2002; to the Committee on Health, Education, Labor, and Pensions. (PM–58) **Page S16117**

Appointments:

Commission on Review of Overseas Military Facility Structure of the United States: The Chair, on behalf of the Democratic Leader, pursuant to Public Law 108–132, appointed the following individuals to the Commission on Review of Overseas Military Facility Structure of the United States: Al Cornella, of South Dakota, and James A. Thomson, of California. **Page S16159**

National Prison Rape Reduction Commission: The Chair, on behalf of the Majority Leader, in consultation with the Democratic Leader and pursuant to Public Law 108–79, appointed the following individual: Gustavus Adolphus Puryear, IV, of Tennessee, to the National Prison Rape Reduction Commission for a term of two years. **Page S16159**

National Prison Rape Reduction Commission: The Chair, on behalf of the Democratic Leader, after consultation with the Majority Leader and pursuant to Public Law 108–79, appointed the following individuals to the National Prison Rape Reduction Commission: James Evan Aiken, of North Carolina, and Cindy Struckman-Johnson of South Dakota. **Page S16159**

Nominations Confirmed: Senate confirmed the following nominations:

Bruce E. Kasold, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims for the term prescribed by law.

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.

Lawrence B. Hagel, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims for the term prescribed by law.

Ephraim Batambuze, of Illinois, to be a Member of the Board of Directors of the African Development Foundation for a term expiring February 9, 2008.

John W. Leslie, Jr., of Connecticut, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2007.

Elizabeth Courtney, of Louisiana, 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.

Elizabeth Courtney, of Louisiana, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2010. (Reappointment)

Charles Darwin Snelling, of Pennsylvania, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority for the remainder of the term expiring May 30, 2006.

D. Michael Fisher, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.

Howard Radzely, of Maryland, to be Solicitor for the Department of Labor.

Thomas J. Curry, of Massachusetts, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term of six years.

Alicia R. Castaneda, of the District of Columbia, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2004.

Alicia R. Castaneda, of the District of Columbia, to be a Director of the Federal Housing Finance Board for a term expiring February 27, 2011. (Reappointment)

Jackie Wolcott Sanders, for the rank of Ambassador during her tenure of service as United States Representative to the Conference on Disarmament and the Special Representative of the President of the United States for Non-Proliferation of Nuclear Weapons.

Rixio Enrique Medina, of Oklahoma, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years.

Scott J. Bloch, of Kansas, to be Special Counsel, Office of Special Counsel, for the term of five years.

Federico Lawrence Rocha, of California, to be United States Marshal for the Northern District of California for the term of four years.

George W. Miller, of Virginia, to be a Judge of the United States Court of Federal Claims for the term of fifteen years.

Karan K. Bhatia, of Maryland, to be an Assistant Secretary of Transportation.

Jennifer Young, of Ohio, to be an Assistant Secretary of Health and Human Services.

William J. Hudson, of Virginia, to be Ambassador to the Republic of Tunisia.

Hector E. Morales, of Texas, to be United States Alternate Executive Director of the Inter-American Development Bank.

Michael O'Grady, of Maryland, to be an Assistant Secretary of Health and Human Services.

David Eisner, of Maryland, to be Chief Executive Officer of the Corporation for National and Community Service.

Read Van de Water, of North Carolina, to be a Member of the National Mediation Board for a term expiring July 1, 2006.

David Wayne Anderson, of Minnesota, to be an Assistant Secretary of the Interior.

Louise V. Oliver, of the District of Columbia, for the rank of Ambassador during her tenure of service as the United States Permanent Representative to the United Nations Educational, Scientific, and Cultural Organization.

David L. Huber, of Kentucky, to be United States Attorney for the Western District of Kentucky for the term of four years.

William K. Sessions III, of Vermont, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2009. (Reappointment)

Mary Kramer, of Iowa, to be Ambassador to Barbados and to serve concurrently and without additional compensation as Ambassador to St. Kitts and Nevis, Saint Lucia, Antigua and Barbuda, the Commonwealth of Dominica, Grenada, and Saint Vincent and the Grenadines.

Jeffrey A. Rosen, of Virginia, to be General Counsel of the Department of Transportation.

Edward B. O'Donnell, Jr., of Tennessee, a Career Member of the Senior Foreign Service, Class of Counselor, for the rank of Ambassador during his tenure of service as Special Envoy for Holocaust Issues.

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

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

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

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

Jon R. Purnell, of Massachusetts, to be Ambassador to the Republic of Uzbekistan.

Thomas Thomas Riley, of California, to be Ambassador to the Kingdom of Morocco.

Margaret Scobey, of Tennessee, to be Ambassador to the Syrian Arab Republic.

Margaret DeBardeleben Tutwiler, of Alabama, to be Under Secretary of State for Public Diplomacy.

Marguerita Dianne Ragsdale, of Virginia, to be Ambassador to the Republic of Djibouti.

Timothy John Dunn, of Illinois, a Career Member of the Senior Foreign Service, Class of Counselor, for the rank of Ambassador during his tenure of service as Deputy Permanent Representative to the Organization of American States.

Stuart W. Holliday, of Texas, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

James Curtis Struble, of California, to be Ambassador to the Republic of Peru.

James B. Comey, of New York, to be Deputy Attorney General.

Carol Kinsley, of Massachusetts, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2006.

Arnold I. Havens, of Virginia, to be General Counsel for the Department of the Treasury.

Steven J. Law, of the District of Columbia, to be Deputy Secretary of Labor.

David C. Mulford, of Illinois, to be Ambassador to India. (Prior to this action, Committee on Foreign Relations was discharged from further consideration.)

James C. Oberwetter, of Texas, to be Ambassador to the Kingdom of Saudi Arabia. (Prior to this action, Committee on Foreign Relations was discharged from further consideration.)

Joseph Max Cleland, of Georgia, to be a Member of the Board of Directors of the Export-Import Bank of the United States for a term expiring January 20, 2007. (Prior to this action, Committee on Banking, Housing, and Urban Affairs was discharged from further consideration.)

April H. Foley, of New York, to be First Vice President of the Export-Import Bank of the United States for the remainder of the term expiring January 20, 2005. (Prior to this action, Committee on Banking, Housing, and Urban Affairs was discharged from further consideration.) **Pages S16214–15**

Nominations Received: Senate received the following nominations:

Samuel W. Bodman, of Massachusetts, to be Deputy Secretary of the Treasury.

Robert Jepson, of Georgia, to be a Member of the Internal Revenue Service Oversight Board for a term expiring September 14, 2008.

Paul Jones, of Colorado, to be a Member of the Internal Revenue Service Oversight Board for a term expiring September 14, 2008.

Charles L. Kolbe, of Iowa, to be a Member of the Internal Revenue Service Oversight Board for the remainder of the term expiring September 14, 2004.

Donald Korb, of Ohio, to be Chief Counsel for the Internal Revenue Service and an Assistant General Counsel in the Department of the Treasury.

Brian Carlton Roseboro, of New Jersey, to be an Under Secretary of the Treasury.

Lisa Kruska, of Virginia, to be an Assistant Secretary of Labor.

LaFayette Collins, of Texas, to be United States Marshal for the Western District of Texas for the term of four years.

Peter W. Hall, of Vermont, to be United States Circuit Judge for the Second Circuit.

James L. Robart, of Washington, to be United States District Judge for the Western District of Washington.

Ronald J. Tenpas, of Illinois, to be United States Attorney for the Southern District of Illinois for a term of four years.

Rhonda Keenum, of Mississippi, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Services.

2 Air Force nominations in the rank of general.

Page S16214

Nominations Withdrawn: Senate received notification of withdrawal of the following nominations:

Susan C. Schwab, of Maryland, to be Deputy Secretary of the Treasury, which was sent to the Senate on July 17, 2003. **Page S16215**

Nominations Returned to the President: The following nominations were returned to the President failing of confirmation under Senate Rule XXXI at the time of the adjournment of the 108th Congress:

Claude A. Allen, Deputy Secretary of Health and Human Services, to be a Member of the Board of Directors of the African Development Foundation.

Claude A. Allen, of Virginia, to be United States Circuit Judge for the Fourth Circuit.

Jeane J. Kirkpatrick, of Maryland, for the rank of Ambassador during her tenure of service as Representative of the United States of America on the Human Rights Commission of the Economic and Social Council of the United Nations.

Louise V. Oliver, of the District of Columbia, to be a Representative of the United States of America to the Thirty-second Session of the General Conference of the United Nations Educational, Scientific, and Cultural Organization.

Peter Eide, of Maryland, to be General Counsel of the Federal Labor Relations Authority.

Neil McPhie, of Virginia, to be a Member of the Merit Systems Protection Board.

David B. Rivkin, Jr., of Virginia, to be a Member of the Foreign Claims Settlement Commission of the United States.

Susanne T. Marshall, of Virginia, to be Chairman of the Merit Systems Protection Board.

Albert Casey, of Texas, to be a Governor of the United States Postal Service.

James C. Miller III, of Virginia, to be a Governor of the United States Postal Service.

Louis S. Thompson, of Maryland, to be a Member of the Reform Board (Amtrak).

Kirk Van Tine, of Virginia, to be Deputy Secretary of Transportation.

2 Air Force nominations in the rank of general.

2 Army nominations in the rank of general.

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Measures Referred: **Page S16118**

Enrolled Bills Presented: **Page S16118**

Additional Cosponsors: **Pages S16120–22**

Statements on Introduced Bills/Resolutions: **Pages S16122–42**

Additional Statements: **Pages S16109–17**

Amendments Submitted: **Pages S16142–50**

Authority for Committees to Meet: **Page S16150**

Adjournment Sine Die: Senate met at 10 a.m., and, in accordance with the provisions of H. Con. Res. 339, and as a further mark of respect to the memory of the late Honorable Paul Simon, former United States Senator from the State of Illinois, in accordance with S. Res. 281, adjourned at 7:33 p.m., until 12 noon, on Tuesday, January 20, 2004.

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Committee Meetings

(Committees not listed did not meet)

NOMINATIONS

Committee on Banking, Housing, and Urban Affairs: Committee concluded a hearing to examine the nominations of April H. Foley, of New York, to be First Vice President of the Export-Import Bank of the United States, and Joseph Max Cleland, of Georgia, to be a Member of the Board of Directors of the

Export-Import Bank of the United States, who was introduced by Senator Daschle, after each nominee testified and answered questions in their own behalf.

U.S. TRADE LAWS

Committee on Governmental Affairs: Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia concluded a hearing to examine the impact of shifting global economic forces on the federal government's ability to negotiate, monitor and enforce trade agreements, focusing on new programs that require greater attention to human capital strategies to ensure that they achieve their goals of facilitating trade while preventing terrorist acts, after receiving testimony from Loren Yager, Director, International Affairs and Trade, General Accounting Office; James J. Jochum, Assistant Secretary of Commerce for Import Administration; Charles W. Freeman III, Deputy Assistant U.S. Trade Representative; Franklin J. Vargo, National Association of Manufacturers, Washington, D.C.; Thomas J. Duesterberg, Manufacturers Alliance/MAPI, Arlington, Virginia; and Tim Hawk, Superior Metal Products/American Trim LLC, Birmingham, Alabama.

House of Representatives

Chamber Action

In accordance with the provisions of H. Con. Res. 339, the House is adjourned sine die until Tuesday, January 20, 2004 for the convening of the Second Session of the 108th Congress.

Committee Meetings

No committee meetings were held.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D1347)*

H.R. 421, to reauthorize the United States Institute for Environmental Conflict Resolution. Signed on December 6, 2003. (Public Law 108–160).

H.R. 1367, to authorize the Secretary of Agriculture to conduct a loan repayment program regarding the provision of veterinary services in shortage situations. Signed on December 6, 2003. (Public Law 108–161).

H.R. 1821, to award a congressional gold medal to Dr. Dorothy Height in recognition of her many contributions to the Nation. Signed on December 6, 2003. (Public Law 108–162).

H.R. 3038, to make certain technical and conforming amendments to correct the Health Care Safety Net Amendments of 2002. Signed on December 6, 2003. (Public Law 108–163).

H.R. 3140, to provide for availability of contact lens prescriptions to patients. Signed on December 6, 2003. (Public Law 108–164).

H.R. 3166, to designate the facility of the United States Postal Service located at 57 Old Tappan Road in Tappan, New York, as the ''John G. Dow Post Office Building''. Signed on December 6, 2003. (Public Law 108–165).

H.R. 3185, to designate the facility of the United States Postal Service located at 38 Spring Street in Nashua, New Hampshire, as the ''Hugh Gregg Post Office Building''. Signed on December 6, 2003. (Public Law 108–166).

H.R. 3349, to authorize salary adjustments for Justices and judges of the United States for fiscal year 2004. Signed on December 6, 2003. (Public Law 108–167).

S. 579, to reauthorize the National Transportation Safety Board. Signed on December 6, 2003. (Public Law 108–168).

S. 1152, to reauthorize the United States Fire Administration. Signed on December 6, 2003. (Public Law 108–169).

S. 1156, to amend title 38, United States Code, to improve and enhance the provision of health care for veterans, to authorize major construction projects and other facilities matters for the Department of Veterans Affairs, to enhance and improve authorities relating to the administration of personnel of the Department of Veterans Affairs. Signed on December 6, 2003. (Public Law 108–170).

S. 1768, to extend the national flood insurance program. Signed on December 6, 2003. (Public Law 108–171).

S. 1895, to temporarily extend the programs under the Small Business Act and the Small Business Investment Act of 1958 through March 15, 2004. Signed on December 6, 2003. (Public Law 108–172).

H.R. 1, to amend title XVIII of the Social Security Act to provide for a voluntary prescription drug benefit under the medicare program and to strengthen and improve the medicare program. Signed on December 8, 2003. (Public Law 108–173).

Next Meeting of the **SENATE**
12 Noon, Tuesday, January 20, 2004

Senate Chamber

Program for Tuesday, January 20th, 2004: Senate will resume consideration of the conference report to accompany H.R. 2673, Agriculture Appropriations Act (Omnibus Appropriations), with a vote on the motion to close further debate on the conference report to occur at 3 p.m.

(Senate will recess from 12:30 p.m. until 2:15 p.m. for their respective party conferences.)

Next Meeting of the **HOUSE OF REPRESENTATIVES**
12 noon, Tuesday, January 20, 2004

House Chamber

Program for Tuesday, January 20th, 2004: Convening of the second session of the 108th Congress.

Extensions of Remarks, as inserted in this issue

HOUSE

NOTICE

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