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Senate

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent the Senator from New York, Mrs. CLINTON, be recognized for 5 minutes to speak?

Mr. WARNER. We would have to lay this aside. We are waiting for the Chair to rule.

Mr. REID. It doesn't have to be laid aside.

Mr. WARNER. We wanted to clear the amendment.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I promise I will speak very briefly. We discussed this amendment at great length today. This is an amendment designed to take care of and put in a special employee cohort, workers in some very dirty nuclear bomb plants in Iowa and Missouri, back in the 1940s and 1950s. At the request of the managers, we added a number of conditions to it. We worked through the authorizations, and the funding of it is by authorization. I believe we have worked that out.

I think the amendment will be set aside. If anybody is really interested in it we will be happy to refer them to the CONGRESSIONAL RECORD, and at the appropriate time we will come back and restate why this is so important. It is relatively inexpensive—$180 million over 10 years. I hope my colleagues will be willing to accept it.

With that, I thank the managers and my cosponsors and I yield the floor.

Mr. WARNER. Mr. President, I want to say at this time, we started today's very productive session of amendments with Senator BOND, who has remained on the floor now I would say about 9 hours, to obtain what you have right now. Well done, sir.

Mr. BOND. I thank my colleague.

Mr. WARNER. If it is agreeable to my colleagues, I ask unanimous consent that amendment be laid aside.

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

AMENDMENTS NOS. 3173, AS MODIFIED; 3202, 3440, AS MODIFIED; 3163, AS MODIFIED; 3199, AS MODIFIED; 3172, AS MODIFIED; 3245, AS MODIFIED; 3285, AS MODIFIED; 3254; 3413, AS MODIFIED; 3246; 3390, AS MODIFIED; 3273, AS MODIFIED; 3284, AS MODIFIED; 3434, AS MODIFIED; 3401; 3237, AS MODIFIED; 3279, AS MODIFIED

Mr. WARNER. I now send a package of amendments to the desk and ask they be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, the amendments will be considered en bloc.

Is there debate?

Mr. LEVIN. These amendments have been cleared, I believe, on both sides.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

The amendments were agreed to, as follows:

AMENDMENT NO. 3173, AS MODIFIED

(Purpose: To provide for the supplemental subsistence allowance, imminent danger pay, family separation allowance, and certain federal assistance to be cumulative benefits; and to require a report on availability of social services to members of the Armed Forces)

On page 127, between the matter following line 5 and line 6, insert the following:

SEC. 621. RELATIONSHIP BETWEEN ELIGIBILITY TO RECEIVE SUPPLEMENTAL SUBSISTENCE ALLOWANCE AND ELIGIBILITY TO RECEIVE IMMINENT DANGER PAY, FAMILY SEPARATION ALLOWANCE, AND CERTAIN FEDERAL ASSISTANCE.

(a) ENTITLEMENT NOT AFFECTED BY RECEIPT OF IMMINENT DANGER PAY AND FAMILY SEPARATION ALLOWANCE.—Subsection (b)(2) of section 402a of title 37, United States Code, is amended by striking subparagraph (A) and inserting the following:

''(A) shall not take into consideration—

''(i) the amount of the supplemental subsistence allowance that is payable under this section;

''(ii) the amount of special pay (if any) that is payable under section 310 of this section, relating to duty subject to hostile fire or imminent danger; or

''(iii) the amount of family separation allowance (if any) that is payable under section 427 of this title; but''.

(b) ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—Section 402a of such title is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection (g):

''(g) ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—(1)(A) A child or spouse of a member of the armed forces receiving the supplemental subsistence allowance under this section who, except for the receipt of such allowance, would otherwise be eligible to receive a benefit described in subparagraph (B) shall be considered to be eligible for that benefit.

''(B) The benefits referred to in subparagraph (A) are as follows:

''(i) Assistance provided under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

''(ii) Assistance provided under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

''(iii) A service under the Head Start Act (42 U.S.C. 9831 et seq.).

''(iv) Assistance under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

''(2) A household that includes a member of the armed forces receiving the supplemental subsistence allowance under this section and, except for the receipt of such allowance, would otherwise be eligible to receive a benefit under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be eligible for that benefit.''.

(c) REQUIREMENT FOR REPORT.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the committees of Congress named in paragraph (2) a report on the accessibility of social services to members of the Armed Forces and their families. The report shall include the following matters:

(A) The social services for which members of the Armed Forces and their families are eligible under social services programs generally available to citizens and other nationals of the United States.

(B) The extent to which members of the Armed Forces and their families utilize the social services for which they are eligible under the programs identified under subparagraph (A).

(C) The efforts made by each of the military departments—

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(i) to ensure that members of the Armed Forces and their families are aware of the social services for which they are eligible under the programs identified under subparagraph (A); and

(ii) to assist members and their families in applying for and obtaining such social services.

(2) The committees of Congress referred to in paragraph (1) are as follows:

(A) The Committee on Armed Services and the Committee on Health, Education, Labor, and Pensions of the Senate.

(B) The Committee on Armed Services of the House of Representatives.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on October 1, 2004.

(2) Subsection (c) shall take effect on the date of the enactment of this Act.

AMENDMENT NO. 3202

(Purpose: To provide relief to mobilized military reservists from certain Federal agricultural loan obligations)

On page 131, between lines 17 and 18, insert the following:

SEC. 653. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN FEDERAL AGRICULTURAL LOAN OBLIGATIONS.

The Consolidated Farm and Rural Development Act is amended by inserting after section 331F (7 U.S.C. 1981f) the following:

"SEC. 332. RELIEF FOR MOBILIZED MILITARY RESERVISTS FROM CERTAIN AGRICULTURAL LOAN OBLIGATIONS.

''(a) DEFINITION OF MOBILIZED MILITARY RESERVIST.—In this section, the term 'mobilized military reservist' means an individual who—

''(1) is on active duty under section 688, 12301(a), 12301(g), 12302, 12304, 12306, or 12406, or chapter 15 of title 10, United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress, regardless of the location at which the active duty service is performed; or

''(2) in the case of a member of the National Guard, is on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds.

''(b) FORGIVENESS OF INTEREST PAYMENTS DUE WHILE BORROWER IS A MOBILIZED MILITARY RESERVIST.—Any requirement that a borrower of a direct loan made under this title make any interest payment on the loan that would otherwise be required to be made while the borrower is a mobilized military reservist is rescinded.

''(c) DEFERRAL OF PRINCIPAL PAYMENTS DUE WHILE OR AFTER BORROWER IS A MOBILIZED MILITARY RESERVIST.—The due date of any payment of principal on a direct loan made to a borrower under this title that would otherwise be required to be made while or after the borrower is a mobilized military reservist is deferred for a period equal in length to the period for which the borrower is a mobilized military reservist.

''(d) NONACCRUAL OF INTEREST.—Interest on a direct loan made to a borrower described in this section shall not accrue during the period the borrower is a mobilized military reservist.

''(e) BORROWER NOT CONSIDERED TO BE DELINQUENT OR RECEIVING DEBT FORGIVENESS.—Notwithstanding section 373 or any other provision of this title, a borrower who receives assistance under this section shall not, as a result of the assistance, be considered to be delinquent or receiving debt forgiveness for purposes of receiving a direct or guaranteed loan under this title.''.

AMENDMENT NO. 3440, AS MODIFIED

(Purpose: To promote a thorough investigation of the United Nations Oil-for-Food Program)

On page 272, after the matter following line 18, insert the following:

SEC. 1055. UNITED NATIONS OIL-FOR-FOOD PROGRAM

(a) RESPONSIBILITY OF INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE FOR SECURITY OF DOCUMENTS.—(1) The Inspector General of the Department of Defense, in cooperation with the Director of the Defense Contract Audit Agency and the Director of the Defense Contract Management Agency, shall ensure, not later than June 30, 2004, the security of all documents relevant to the United Nations Oil-for-Food Program that are in the possession or control of the Coalition Provisional Authority.

(2) The Inspector General shall—

(A) maintain copies of all such documents in the United States at the Department of Defense; and

(B) not later than August 31, 2004, deliver a complete set of all such documents to the Comptroller General of the United States.

(b) COOPERATION IN INVESTIGATIONS.—Each head of an Executive agency, including the Department of State, the Department of Defense, the Department of the Treasury, and the Central Intelligence Agency, and the Administrator of the Coalition Provisional Authority shall, upon a request in connection with an investigation of the United Nations Oil-for-Food Program made by the chairman of the Committee on Foreign Relations, the Committee on Armed Services, the Committee on the Judiciary, the Committee on Governmental Affairs, the Select Committee on Intelligence, the Permanent Subcommittee on Investigations, or other committee of the Senate with relevant jurisdiction, promptly provide to such chairman—

(1) access to any information and documents described in subsections (a) or (c) that are under the control of such agency and responsive to the request; and

(2) assistance relating to access to and utilization of such information and documents.

(c) INFORMATION FROM THE UNITED NATIONS.—(1) The Secretary of State shall use the voice and vote of the United States in the United Nations to urge the Secretary-General of the United Nations to provide the United States copies of all audits and core documents related to the United Nations Oil-for-Food Program.

(2) It is the sense of Congress that, pursuant to section 941(b)(6) of the United Nations Reform Act of 1999 (title IX of division A of H.R. 3427 of the 106th Congress, as enacted into law by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A-480), the Comptroller General of the United States should have full and complete access to financial data relating to the United Nations, including information related to the financial transactions, organization, and activities of the United Nations Oil-for-Food Program.

(3) The Secretary of State shall facilitate the providing of access to the Comptroller General to the financial data described in paragraph (2).

(d) REVIEW OF OIL-FOR-FOOD PROGRAM BY COMPTROLLER GENERAL.—(1) The Comptroller General of the United States shall conduct a review of United States oversight of the United Nations Oil-for-Food Program. The review—

(A) in accordance with Generally Accepted Government Auditing Standards, should not interfere with any ongoing criminal investigations or inquiries related to the Oil-for-Food program; and

(B) may take into account the results of any investigations or inquiries related to the Oil-for-Food program.

(2) The head of each Executive agency shall fully cooperate with the review under this subsection.

(e) EXECUTIVE AGENCY DEFINED.—In this section, the term ''Executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

AMENDMENT NO. 3163, AS MODIFIED

(Purpose: To provide for improved medical readiness of the members of the Armed Forces, and for other purposes)

On page 296, between lines 14 and 15, insert the following:

TITLE XIII—MEDICAL READINESS TRACKING AND HEALTH SURVEILLANCE

SEC. 1301. ANNUAL MEDICAL READINESS PLAN AND JOINT MEDICAL READINESS OVERSIGHT COMMITTEE.

(a) REQUIREMENT FOR PLAN.—The Secretary of Defense shall develop a comprehensive plan to improve medical readiness, and Department of Defense tracking of the health status, of members of the Armed Forces throughout their service in the Armed Forces, and to strengthen medical readiness and tracking before, during, and after deployment of the personnel overseas. The matters covered by the comprehensive plan shall include all elements that are described in this title and the amendments made by this title and shall comply with requirements in law.

(b) JOINT MEDICAL READINESS OVERSIGHT COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary of Defense shall establish a Joint Medical Readiness Oversight Committee.

(2) COMPOSITION.—The members of the Committee are as follows:

(A) The Under Secretary of Defense for Personnel and Readiness, who shall chair the Committee.

(B) The Assistant Secretary of Defense for Health Affairs.

(C) The Assistant Secretary of Defense for Reserve Affairs.

(D) The Surgeons General of the Armed Forces.

(E) The Assistant Secretary of the Army for Manpower and Reserve Affairs.

(F) The Assistant Secretary of the Navy for Manpower and Reserve Affairs.

(G) The Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations, and Environment.

(H) The Chief of the National Guard Bureau.

(I) The Chief of Army Reserve.

(J) The Chief of Naval Reserve.

(K) The Chief of Air Force Reserve.

(L) The Commander, Marine Corps Reserve.

(M) The Director of the Defense Manpower Data Center.

(N) A representative of the Department of Veterans Affairs designated by the Secretary of Veterans Affairs.

(O) Representatives of veterans and military health advocacy organizations appointed to the Committee by the Secretary of Defense.

(P) An individual from civilian life who is recognized as an expert on military health care treatment, including research relating to such treatment.

(3) DUTIES.—The duties of the Committee are as follows:

(A) To advise the Secretary of Defense on the medical readiness and health status of the members of the active and reserve components of the Armed Forces.

(B) To advise the Secretary of Defense on the compliance of the Armed Forces with the

medical readiness tracking and health surveillance policies of the Department of Defense.

(C) To oversee the development and implementation of the comprehensive plan required by subsection (a) and the actions required by this title and the amendments made by this title, including with respect to matters relating to—

(i) the health status of the members of the reserve components of the Armed Forces;

(ii) accountability for medical readiness;

(iii) medical tracking and health surveillance;

(iv) declassification of information on environmental hazards;

(v) postdeployment health care for members of the Armed Forces; and

(vi) compliance with Department of Defense and other applicable policies on blood serum repositories.

(D) To ensure unity and integration of efforts across functional and organizational lines within the Department of Defense with regard to medical readiness tracking and health status surveillance of members of the Armed Forces.

(E) To establish and monitor compliance with the medical readiness standards that are applicable to members and those that are applicable to units.

(F) To improve continuity of care in coordination with the Secretary of Veterans Affairs, for members of the Armed Forces separating from active service with service-connected medical conditions.

(G) To prepare and submit to the Secretary of Defense and to the Committees on Armed Services of the Senate and the House of Representatives, not later than February 1 of each year, a report on—

(i) the health status and medical readiness of the members of the Armed Forces, including the members of reserve components, based on the comprehensive plan required under subsection (a) and the actions required by this title and the amendments made by this title; and

(ii) compliance with Department of Defense policies on medical readiness tracking and health surveillance.

(4) FIRST MEETING.—The first meeting of the Committee shall be held not later than 90 days after the date of the enactment of this Act.

SEC. 1302. MEDICAL READINESS OF RESERVES.

(a) COMPTROLLER GENERAL STUDY OF HEALTH OF RESERVES ORDERED TO ACTIVE DUTY FOR OPERATIONS ENDURING FREEDOM AND IRAQI FREEDOM.—

(1) REQUIREMENT FOR STUDY.—The Comptroller General of the United States shall carry out a study of the health of the members of the reserve components of the Armed Forces who have been called or ordered to active duty for a period of more than 30 days in support of Operation Enduring Freedom and Operation Iraqi Freedom. The Comptroller General shall commence the study not later than 180 days after the date of the enactment of this Act.

(2) PURPOSES.—The purposes of the study under this subsection are as follows:

(A) To review the health status and medical fitness of the activated Reserves when they were called or ordered to active duty.

(B) To review the effects, if any, on logistics planning and the deployment schedules for the operations referred to in paragraph (1) that resulted from deficiencies in the health or medical fitness of activated Reserves.

(C) To review compliance of military personnel with Department of Defense policies on medical and physical fitness examinations and assessments that are applicable to the reserve components of the Armed Forces.

(3) REPORT.—The Comptroller General shall, not later than one year after the date of the enactment of this Act, submit a report on the results of the study under this subsection to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following matters:

(A) With respect to the matters reviewed under subparagraph (A) of paragraph (2)—

(i) the percentage of activated Reserves who were determined to be medically unfit for deployment, together with an analysis of the reasons why the member was unfit, including medical illnesses or conditions most commonly found among the activated Reserves that were grounds for determinations of medical unfitness for deployment; and

(ii) the percentage of the activated Reserves who, before being deployed, needed medical care for health conditions identified when called or ordered to active duty, together with an analysis of the types of care that were provided for such conditions and the reasons why such care was necessary.

(B) With respect to the matters reviewed under subparagraph (B) of paragraph (2)—

(i) the delays and other disruptions in deployment schedules that resulted from deficiencies in the health status or medical fitness of activated Reserves; and

(ii) an analysis of the extent to which it was necessary to merge units or otherwise alter the composition of units, and the extent to which it was necessary to merge or otherwise alter objectives, in order to compensate for limitations on the deployability of activated Reserves resulting from deficiencies in the health status or medical fitness of activated Reserves.

(C) With respect to the matters reviewed under subparagraph (C) of paragraph (2), an assessment of the extent of the compliance of reserve component personnel with Department of Defense policies on routine medical and physical fitness examinations that are applicable to the reserve components of the Armed Forces.

(D) An analysis of the extent to which the medical care, if any, provided to activated Reserves in each theater of operations referred to in paragraph (1) related to pre-existing conditions that were not adequately addressed before the deployment of such personnel to the theater.

(4) DEFINITIONS.—In this subsection:

(A) The term ''activated Reserves'' means the members of the Armed Forces referred to in paragraph (1).

(B) The term ''active duty for a period of more than 30 days'' has the meaning given such term in section 101(d) of title 10, United States Code.

(C) The term ''health condition'' includes a mental health condition and a dental condition.

(D) The term ''reserve components of the Armed Forces'' means the reserve components listed in section 10101 of title 10, United States Code.

(b) ACCOUNTABILITY FOR INDIVIDUAL AND UNIT MEDICAL READINESS.—

(1) POLICY.—The Secretary of Defense shall issue a policy to ensure that individual members and commanders of reserve component units fulfill their responsibilities for medical and dental readiness of members of the units on the basis of—

(A) frequent periodic health assessment of members (not less frequently than once every two years) using the predeployment assessment procedure required under section 1074f of title 10, United States Code, as the minimum standard of medical readiness; and

(B) any other information on the health status of the members that is available to the commanders.

(2) REVIEW AND FOLLOWUP CARE.—The regulations under this subsection shall provide for review of the health assessments under paragraph (1) by a medical professional and for any followup care and treatment that is needed for medical or dental readiness.

(3) MODIFICATION OF PREDEPLOYMENT HEALTH ASSESSMENT SURVEY.—In meeting the policy under paragraph (1), the Secretary shall—

(A) to the extent practicable, modify the predeployment health assessment survey to bring such survey into conformity with the detailed postdeployment health assessment survey in use as of October 1, 2004; and

(B) ensure the use of the predeployment health assessment survey, as so modified, for predeployment health assessments after that date.

(c) UNIFORM POLICY ON DEFERRAL OF MEDICAL TREATMENT PENDING DEPLOYMENT TO THEATERS OF OPERATIONS.—

(1) REQUIREMENT FOR POLICY.—The Secretary of Defense shall prescribe, for uniform applicability throughout the Armed Forces, a policy on deferral of medical treatment of members pending deployment.

(2) CONTENT.—The policy prescribed under paragraph (1) shall specify the following matters:

(A) The circumstances under which treatment for medical conditions may be deferred to be provided within a theater of operations in order to prevent delay or other disruption of a deployment to that theater.

(B) The circumstances under which medical conditions are to be treated before deployment to that theater.

SEC. 1303. BASELINE HEALTH DATA COLLECTION PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—

(1) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1092 the following new section:

''§ 1092a. Persons entering the armed forces: baseline health data

''(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program—

''(1) to collect baseline health data from all persons entering the armed forces;

''(2) to provide for computerized compilation and maintenance of the baseline health data; and

''(3) to analyze the data.

''(b) PURPOSES.—The program under this section shall be designed to achieve the following purposes:

''(1) To facilitate understanding of how exposures related to service in the armed forces affect health.

''(2) To facilitate development of early intervention and prevention programs to protect health and readiness.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1092 the following new item:

''1092a. Persons entering the armed forces: baseline health data.''.

(3) TIME FOR IMPLEMENTATION.—The Secretary of Defense shall implement the program required under section 1092a of title 10, United States Code (as added by paragraph (1)), not later than two years after the date of the enactment of this Act.

(b) INTERIM STANDARDS FOR BLOOD SAMPLING.—The Secretary of Defense shall require under the medical tracking system administered under section 1074f of title 10, United States Code, that—

(1) the blood samples necessary for the predeployment medical examination of a member of the Armed Forces required under subsection (b) of such section be drawn not earlier than 60 days before the date of the deployment; and

(2) the blood samples necessary for the postdeployment medical examination of a

member of the Armed Forces required under such subsection be drawn not later than 30 days after the date on which the deployment ends.

SEC. 1304. MEDICAL CARE AND TRACKING AND HEALTH SURVEILLANCE IN THE THEATER OF OPERATIONS.

(a) RECORDKEEPING POLICY.—The Secretary of Defense shall prescribe a policy that requires the records of all medical care provided to a member of the Armed Forces in a theater of operations to be maintained as part of a complete health record for the member.

(b) IN-THEATER MEDICAL TRACKING AND HEALTH SURVEILLANCE.—

(1) REQUIREMENT FOR EVALUATION.—The Secretary of Defense shall evaluate the system for the medical tracking and health surveillance of members of the Armed Forces in theaters of operations and take such actions as may be necessary to improve the medical tracking and health surveillance.

(2) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit a report on the actions taken under paragraph (1) to the Committees on Armed Services of the Senate and the House of Representatives. The report shall include the following matters:

(A) An analysis of the strengths and weaknesses of the medical tracking system administered under section 1074f of title 10, United States Code.

(B) An analysis of the efficacy of health surveillance systems as a means of detecting—

(i) any health problems (including mental health conditions) of members of the Armed Forces contemporaneous with the performance of the assessment under the system; and

(ii) exposures of the assessed members to environmental hazards that potentially lead to future health problems.

(C) An analysis of the strengths and weaknesses of such medical tracking and surveillance systems as a means for supporting future research on health issues.

(D) Recommended changes to such medical tracking and health surveillance systems.

(E) A summary of scientific literature on blood sampling procedures used for detecting and identifying exposures to environmental hazards.

(F) An assessment of whether there is a need for changes to regulations and standards for drawing blood samples for effective tracking and health surveillance of the medical conditions of personnel before deployment, upon the end of a deployment, and for a followup period of appropriate length.

(c) PLAN TO OBTAIN HEALTH CARE RECORDS FROM ALLIES.—The Secretary of Defense shall develop a plan for obtaining all records of medical treatment provided to members of the Armed Forces by allies of the United States in Operation Enduring Freedom and Operation Iraqi Freedom. The plan shall specify the actions that are to be taken to obtain all such records.

(d) POLICY ON IN-THEATER PERSONNEL LOCATOR DATA.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall prescribe a Department of Defense policy on the collection and dissemination of in-theater individual personnel location data.

SEC. 1305. DECLASSIFICATION OF INFORMATION ON EXPOSURES TO ENVIRONMENTAL HAZARDS.

(a) REQUIREMENT FOR REVIEW.—The Secretary of Defense shall review and, as determined appropriate, revise the classification policies of the Department of Defense with a view to facilitating the declassification of data that is potentially useful for the monitoring and assessment of the health of members of the Armed Forces who have been exposed to environmental hazards during deployments overseas, including the following data:

(1) In-theater injury rates.

(2) Data derived from environmental surveillance.

(3) Health tracking and surveillance data.

(b) CONSULTATION WITH COMMANDERS OF THEATER COMBATANT COMMANDS.—The Secretary shall, to the extent that the Secretary considers appropriate, consult with the senior commanders of the in-theater forces of the combatant commands in carrying out the review and revising policies under subsection (a).

SEC. 1306. ENVIRONMENTAL HAZARDS.

(a) REPORT ON TRAINING OF FIELD MEDICAL PERSONNEL.—

(1) REQUIREMENT FOR REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the training on environmental hazards that is provided by the Armed Forces to medical personnel of the Armed Forces who are deployable to the field in direct support of combat personnel.

(2) CONTENT.—The report under paragraph (1) shall include the following:

(A) An assessment of the adequacy of the training regarding—

(i) the identification of common environmental hazards and exposures to such hazards; and

(ii) the prevention and treatment of adverse health effects of such exposures.

(B) A discussion of the actions taken and to be taken to improve such training.

(c) REPORT ON RESPONSES TO HEALTH CONCERNS OF MEMBERS.—

(1) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the Assistant Secretary of Defense for Health Affairs shall submit to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives a report on Department of Defense responses to concerns expressed by members of the Armed Forces during post-deployment health assessments about possibilities that the members were exposed to environmental hazards deleterious to the members' health during a deployment overseas.

(2) CONTENT.—The report regarding health concerns submitted under paragraph (1) shall include the following:

(A) A discussion of the actions taken by Department of Defense officials to investigate the circumstances underlying such concerns in order to determine the validity of the concerns.

(B) A discussion of the actions taken by Department of Defense officials to evaluate or treat members and former members of the Armed Forces who are confirmed to have been exposed to environmental hazards deleterious to their health during deployments of the Armed Forces.

SEC. 1307. POST-DEPLOYMENT MEDICAL CARE RESPONSIBILITIES OF INSTALLATION COMMANDERS.

(a) REQUIREMENT FOR REGULATIONS.—The Secretary of Defense shall prescribe a policy that requires the commander of each military installation at which members of the Armed Forces are to be processed upon redeployment from an overseas deployment—

(1) to identify and analyze the anticipated health care needs of such members before the arrival of such members at that installation; and

(2) to report such needs to the Secretary.

(b) HEALTH CARE TO MEET NEEDS.—The policy under this section shall include procedures for the commander of each military installation described in subsection (a) to meet the anticipated health care needs that are identified by the commander in the performance of duties under the regulations, including the following:

(1) Arrangements for health care provided by the Secretary of Veterans Affairs.

(2) Procurement of services from local health care providers.

(3) Temporary employment of health care personnel to provide services at such installation.

SEC. 1308. FULL IMPLEMENTATION OF MEDICAL READINESS TRACKING AND HEALTH SURVEILLANCE PROGRAM AND FORCE HEALTH PROTECTION AND READINESS PROGRAM.

(a) IMPLEMENTATION AT ALL LEVELS.—The Secretary of Defense, in conjunction with the Secretaries of the military departments, shall take such actions as are necessary to ensure that the Army, Navy, Air Force, and Marine Corps fully implement at all levels—

(1) the Medical Readiness Tracking and Health Surveillance Program under this title and the amendments made by this title; and

(2) the Force Health Protection and Readiness Program of the Department of Defense (relating to the prevention of injury and illness and the reduction of disease and noncombat injury threats).

(b) ACTION OFFICIAL.—The Secretary of Defense may act through the Under Secretary of Defense for Personnel and Readiness in carrying out subsection (a).

SEC. 1309. OTHER MATTERS.

(a) ANNUAL REPORTS.—

(1) REQUIREMENT FOR REPORTS.—

(A) Chapter 55 of title 10, United States Code, is amended by inserting after section 1073a the following new section:

"§ 1073b. Recurring reports

''(a) ANNUAL REPORT ON HEALTH PROTECTION QUALITY.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives each year a report on the Force Health Protection Quality Assurance Program of the Department of Defense. The report shall include the following matters:

''(A) The results of an audit of the extent to which the serum samples required to be obtained from members of the armed forces before and after a deployment are stored in the serum repository of the Department of Defense.

''(B) The results of an audit of the extent to which the health assessments required for members of the armed forces before and after a deployment are being maintained in the electronic database of the Defense Medical Surveillance System.

''(C) An analysis of the actions taken by the Department of Defense personnel to respond to health concerns expressed by members of the armed forces upon return from a deployment.

''(D) An analysis of the actions taken by the Secretary to evaluate or treat members and former members of the armed forces who are confirmed to have been exposed to occupational or environmental hazards deleterious to their health during a deployment.

''(2) The Secretary of Defense shall act through the Assistant Secretary of Defense for Health Affairs in carrying out this subsection.

''(b) ANNUAL REPORT ON RECORDING OF HEALTH ASSESSMENT DATA IN MILITARY PERSONNEL RECORDS.—The Secretary of Defense shall issue each year a report on the compliance by the military departments with applicable policies on the recording of health assessment data in military personnel records. The report shall include a discussion of the extent to which immunization status and

predeployment and postdeployment health care data is being recorded in such records.''.

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1073a the following new item:

''1073b. Recurring reports.''.

(2) INITIAL REPORT.—The first report under section 1073b(a) of title 10, United States Code (as added by paragraph (1)), shall be completed not later than 180 days after the date of the enactment of this Act.

(b) INTERNET ACCESSIBILITY OF HEALTH ASSESSMENT INFORMATION FOR MEMBERS OF THE ARMED FORCES.—Not later than one year after the date of the enactment of this Act, the Chief Information Officer of each military department shall ensure that the online portal website of that military department includes the following information relating to health assessments:

(1) Information on the Department of Defense policies regarding predeployment and postdeployment health assessments, including policies on the following matters:

(A) Health surveys.

(B) Physical examinations.

(C) Collection of blood samples and other tissue samples.

(2) Procedural information on compliance with such policies, including the following information:

(A) Information for determining whether a member is in compliance.

(B) Information on how to comply.

(3) Health assessment surveys that are either—

(A) web-based; or

(B) accessible (with instructions) in printer-ready form by download.

SEC. 1310. USE OF CIVILIAN EXPERTS AS CONSULTANTS.

Nothing in this title or an amendment made by this title shall be construed to limit the authority of the Secretary of Defense to procure the services of experts outside the Federal Government for performing any function to comply with requirements for readiness tracking and health surveillance of members of the Armed Forces that are applicable to the Department of Defense.

AMENDMENT NO. 3199, AS MODIFIED

(Purpose: To authorize United Service Organizations, Incorporated (USO) to procure supplies and services from the General Services Administration supplies and services on the Federal Supply Schedule)

On page 195, between lines 10 and 11, insert the following:

SEC. 868. AVAILABILITY OF FEDERAL SUPPLY SCHEDULE SUPPLIES AND SERVICES TO UNITED SERVICE ORGANIZATIONS, INCORPORATED.

Section 220107 of title 36, United States Code, is amended by inserting after ''Department of Defense'' the following: '', including access to General Services Administration supplies and services through the Federal Supply Schedule of the General Services Administration,''

AMENDMENT NO. 3172, AS MODIFIED

(Purpose: To express the sense of the Senate that perchlorate contamination of ground and surface water is becoming increasingly problematic to the public health of people in the United States)

On page 48, between lines 7 and 8, insert the following:

SEC. 326. SENSE OF SENATE ON PERCHLORATE CONTAMINATION OF GROUND AND SURFACE WATER.

(a) FINDINGS.—The Senate makes the following findings:

(1) Because finite water sources in the United States are stretched by regional drought conditions and increasing demand for water supplies, there is increased need for safe and dependable supplies of fresh water for drinking and use for agricultural purposes.

(2) Perchlorate, a naturally occurring and manmade compound with medical, commercial, and national defense applications, which has been used primarily in military munitions and rocket fuels, has been detected in fresh water sources intended for use as drinking water and water necessary for the production of agricultural commodities.

(3) If ingested in sufficient concentration and in adequate duration, perchlorate may interfere with thyroid metabolism, and this effect may impair the normal development of the brain in fetuses and newborns.

(4) The Federal Government has not yet established a drinking water standard for perchlorate.

(5) The National Academy of Sciences is conducting an assessment of the state of the science regarding the effects on human health of perchlorate ingestion that will aid in understanding the effect of perchlorate exposure on sensitive populations.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) perchlorate has been identified as a contaminant of drinking water sources or in the environment in 34 States and has been used or manufactured in 44 States;

(2) perchlorate exposure at or above a certain level may adversely affect public health, particularly the health of vulnerable and sensitive populations; and

(3) the Department of Defense should—

(A) work to develop a national plan to remediate perchlorate contamination of the environment resulting from Department's activities to ensure the Department is prepared to respond quickly and appropriately once a drinking water standard is established;

(B) in cases in which the Department is already remediating perchlorate contamination, continue that remediation;

(C) prior to the development of a drinking water standard for perchlorate, develop a plan to remediate perchlorate contamination in cases in which such contamination from the Department's activities is present in ground or surface water at levels that pose a hazard to human health; and

(D) continue the process of evaluating and prioritizing sites without waiting for the development of a Federal standard.

AMENDMENT NO. 3245, AS MODIFIED

(Purpose: To require two reports on operation of the Federal Voting Assistance Program and the military postal system together with certain actions to improve the military postal system)

On page 247, between lines 13 and 14, insert the following:

SEC. 1022. OPERATION OF THE FEDERAL VOTING ASSISTANCE PROGRAM AND THE MILITARY POSTAL SYSTEM.

(a) REQUIREMENT FOR REPORTS.—(1) The Secretary of Defense shall submit to Congress two reports on the actions that the Secretary has taken to ensure that—

(A) the Federal Voting Assistance Program functions effectively to support absentee voting by members of the Armed Forces deployed outside the United States in support of Operation Iraqi Freedom, Operation Enduring Freedom, and all other contingency operations; and

(B) the military postal system functions effectively to support the morale of the personnel described in subparagraph (A) and absentee voting by such members.

(2)(A) The first report under paragraph (1) shall be submitted not later than 60 days after the date of the enactment of this Act.

(B) The second report under paragraph (1) shall be submitted not later than 60 days after the date on which the first report is submitted under that paragraph.

(3) In this subsection, the term ''Federal Voting Assistance Program'' means the program referred to in section 1566(b)(1) of title 10, United States Code.

(b) IMPLEMENTATION OF RECOMMENDED POSTAL SYSTEM IMPROVEMENTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report setting forth—

(1) the actions taken to implement the recommendations of the Military Postal Service Agency Task Force, dated 28 August 2000; and

(2) in the case of each such recommendation not implemented or not fully implemented as of the date of report, the reasons for not implementing or not fully implementing such recommendation, as the case may be.

AMENDMENT NO. 3285, AS MODIFIED

(Purpose: To amend title 32, United States Code, to provide for the use of members of the National Guard on full-time National Guard duty for carrying out homeland security activities in support of Federal agencies)

On page 208, between lines 16 and 17, insert the following:

SEC. 906. HOMELAND SECURITY ACTIVITIES OF THE NATIONAL GUARD.

(a) AUTHORITY.—Chapter 1 of title 32, United States Code, is amended by adding at the end the following new section:

''§ 116. Homeland security activities

''(a) USE OF PERSONNEL PERFORMING FULL-TIME NATIONAL GUARD DUTY.—The Governor of a State may, upon the request by the head of a Federal agency and with the concurrence of the Secretary of Defense, order any personnel of the National Guard of the State to perform full-time National Guard duty under section 502(f) of this title for the purpose of carrying out homeland security activities, as described in subsection (b).

''(b) PURPOSE AND DURATION.—(1) The purpose for the use of personnel of the National Guard of a State under this section is to temporarily provide trained and disciplined personnel to a Federal agency to assist that agency in carrying out homeland security activities.

''(2) The duration of the use of the National Guard of a State under this section shall be limited to a period of 180 days. The Governor of the State may, with the concurrence of the Secretary of Defense, extend the period one time for an additional 90 days to meet extraordinary circumstances.

''(c) RELATIONSHIP TO REQUIRED TRAINING.— A member of the National Guard serving on full-time National Guard duty under orders authorized under subsection (a) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that subsection. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out homeland security activities. The member is not entitled to additional pay, allowances, or other benefits for participation in training required under section 502(a)(1) of this title.

''(d) READINESS.—To ensure that the use of units and personnel of the National Guard of a State for homeland security activities does not degrade the training and readiness of such units and personnel, the following requirements shall apply in determining the homeland security activities that units and

personnel of the National Guard of a State may perform:

''(1) The performance of the activities may not adversely affect the quality of that training or otherwise interfere with the ability of a member or unit of the National Guard to perform the military functions of the member or unit.

''(2) National Guard personnel will not degrade their military skills as a result of performing the activities.

''(3) The performance of the activities will not result in a significant increase in the cost of training.

''(4) In the case of homeland security performed by a unit organized to serve as a unit, the activities will support valid unit training requirements.

''(e) PAYMENT OF COSTS.—(1) The Secretary of Defense shall provide funds to the Governor of a State to pay costs of the use of personnel of the National Guard of the State for the performance of homeland security activities under this section. Such funds shall be used for the following costs:

''(A) The pay, allowances, clothing, subsistence, gratuities, travel, and related expenses (including all associated training expenses, as determined by the Secretary), as authorized by State law, of personnel of the National Guard of that State used, while not in Federal service, for the purpose of homeland security activities.

''(B) The operation and maintenance of the equipment and facilities of the National Guard of that State used for the purpose of homeland security activities.

''(2) The Secretary of Defense shall require the head of an agency receiving support from the National Guard of a State in the performance of homeland security activities under this section to reimburse the Department of Defense for the payments made to the State for such support under paragraph (1).

''(f) MEMORANDUM OF AGREEMENT.—The Secretary of Defense and the Governor of a State shall enter into a memorandum of agreement with the head of each Federal agency to which the personnel of the National Guard of that State are to provide support in the performance of homeland security activities under this section. The memorandum of agreement shall—

''(1) specify how personnel of the National Guard are to be used in homeland security activities;

''(2) include a certification by the Adjutant General of the State that those activities are to be performed at a time when the personnel are not in Federal service;

''(3) include a certification by the Adjutant General of the State that—

''(A) participation by National Guard personnel in those activities is service in addition to training required under section 502 of this title; and

''(B) the requirements of subsection (d) of this section will be satisfied;

''(4) include a certification by the Attorney General of the State (or, in the case of a State with no position of Attorney General, a civilian official of the State equivalent to a State attorney general), that the use of the National Guard of the State for the activities provided for under the memorandum of agreement is authorized by, and is consistent with, State law;

''(5) include a certification by the Governor of the State or a civilian official of the State designated by the Governor that the activities provided for under the memorandum of agreement serve a State security purpose; and

''(6) include a certification by the head of the Federal agency that the agency will have a plan to ensure that the agency's requirement for National Guard support ends not later than 179 days after the commencement of the support.

''(g) EXCLUSION FROM END-STRENGTH COMPUTATION.—Notwithstanding any other provision of law, members of the National Guard on active duty or full-time National Guard duty for the purposes of administering (or during fiscal year 2003 otherwise implementing) this section shall not be counted toward the annual end strength authorized for Reserves on active duty in support of the reserve components of the armed forces or toward the strengths authorized in sections 12011 and 12012 of title 10.

''(h) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress an annual report regarding any assistance provided and activities carried out under this section during the preceding fiscal year. The report shall include the following:

''(1) The number of members of the National Guard excluded under subsection (g) from the computation of end strengths.

''(2) A description of the homeland security activities conducted with funds provided under this section.

''(3) An accounting of the amount of funds provided to each State.

''(4) A description of the effect on military training and readiness of using units and personnel of the National Guard to perform homeland security activities under this section.

''(i) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform functions authorized to be performed by the National Guard by the laws of the State concerned.

''(j) DEFINITIONS.—For purposes of this section:

''(1) The term 'Governor of a State' means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

''(2) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such section is amended by adding at the end the following new item:

''116. Homeland security activities.''.

AMENDMENT NO. 3254

(Purpose: To repeal a requirement for an officer to retire upon termination of service as Superintendent of the Air Force Academy)

On page 84, between the matter following line 13 and line 14, insert the following:

SEC. 535. REPEAL OF REQUIREMENT FOR OFFICER TO RETIRE UPON TERMINATION OF SERVICE AS SUPERINTENDENT OF THE AIR FORCE ACADEMY.

(a) REPEALS.—Sections 8921 and 9333a of title 10, United States Code, are repealed.

(b) CLERICAL AMENDMENTS.—Subtitle D of title 10, United States Code, is amended—

(1) in the table of sections at the beginning of chapter 867, by striking the item relating to section 8921; and

(2) in the table of sections at the beginning of chapter 903, by striking the item relating to section 9333a.

AMENDMENT NO. 3413, AS MODIFIED

(Purpose: To amend the Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Pilot Program)

On page 285, line 1, insert '', the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives'' after ''Representatives''.

On page 285, between lines 9 and 10, insert the following:

(g) CRITICAL HIRING NEED.—Section 3304(a)(3) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

''(B)(i) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need; or

''(ii) the candidate is a participant in the Science, Mathematics, and Research for Transformation (SMART) Defense Scholarship Pilot Program under section 1101 of the National Defense Authorization Act for Fiscal Year 2005.''.

On page 285, line 9, strike ''(g)'' and insert ''(h)''.

AMENDMENT NO. 3246

(Purpose: To permit qualified HUBZone small business concerns and small business concerns owned and controlled by service-disabled veterans to participate in the mentor-protege program of the Department of Defense)

At the end of subtitle G of title X, add the following:

SEC. ___. MENTOR-PROTEGE PILOT PROGRAM.

Section 831(m)(2) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2302 note) is amended—

(1) in subparagraph (D), by striking ''or'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(F) a small business concern owned and controlled by service–disabled veterans (as defined in section 8(d)(3) of the Small Business Act); and

''(G) a qualified HUBZone small business concern (as defined in section 3(p) of the Small Business Act).''.

AMENDMENT NO. 3390, AS MODIFIED

(Purpose: To express the sense of Congress on the Global Partnership Against the Spread of Weapons of Mass Destruction)

At the end of subtitle F of title X, add the following:

SEC. 1055. SENSE OF CONGRESS ON THE GLOBAL PARTNERSHIP AGAINST THE SPREAD OF WEAPONS OF MASS DESTRUCTION.

It is the sense of Congress that the President should be commended for the steps taken at the G–8 summit at Sea Island, Georgia, on June 8–10, 2004, to demonstrate continued support for the Global Partnership against the Spread of Nuclear Weapons and Materials of Mass Destruction and to expand the Partnership by welcoming new members and using the Partnership to coordinate nonproliferation projects in Libya, Iraq and other countries; and that the President should continue to—

(1) expand the membership of donor nations to the Partnership;

(2) insure that Russia remains the primary partner of the Partnership while also seeking to fund through the Partnership efforts in other countries with potentially vulnerable weapons or materials;

(3) develop for the Partnership clear program goals;

(4) develop for the Partnership transparent project prioritization and planning;

(5) develop for the Partnership project implementation milestones under periodic review;

(6) develop under the Partnership agreements between partners for project implementation; and

(7) give high priority and senior-level attention to resolving disagreements on site

access and worker liability under the Partnership.

AMENDMENT NO. 3273, AS MODIFIED

(Purpose: To revise and extend the authority for an advisory panel on review of Government procurement laws and regulations)

On page 158, between lines 6 and 7, insert the following:

SEC. 805. REVISION AND EXTENSION OF AUTHORITY FOR ADVISORY PANEL ON REVIEW OF GOVERNMENT PROCUREMENT LAWS AND REGULATIONS.

(a) RELATIONSHIP OF RECOMMENDATIONS TO SMALL BUSINESSES.—Section 1423 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 106–136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

''(d) ISSUES RELATING TO SMALL BUSINESSES.—In developing recommendations under subsection (c)(2), the panel shall—

''(1) consider the effects of its recommendations on small business concerns; and

''(2) include any recommended modifications of laws, regulations, and policies that the panel considers necessary to enhance and ensure competition in contracting that affords small business concerns meaningful opportunity to participate in Federal Government contracts.''.

(b) REVISION AND EXTENSION OF REPORTING REQUIREMENT.—Section 1423(d) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended—

(1) by striking ''one year after the establishment of the panel'' and inserting ''one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005'';

(2) by striking ''Services and'' both places it appears and inserting ''Services,'';

(3) by inserting '', and Small Business'' after ''Government Reform''; and

(4) by inserting '', and Small Business and Entrepreneurship'' after ''Governmental Affairs''.

AMENDMENT NO. 3284, AS MODIFIED

(Purpose: To require an independent report on the efforts of the National Nuclear Security Administration to understand the aging of plutonium in nuclear weapons)

On page 394, after line 22, insert the following:

SEC. 3122. REPORT ON EFFORTS OF NATIONAL NUCLEAR SECURITY ADMINISTRATION TO UNDERSTAND PLUTONIUM AGING.

(a) STUDY.—(1) The Administrator for Nuclear Security shall enter into a contract with a Federally Funded Research and Development Center (FFROC) providing for a study to assess the efforts of the National Nuclear Security Administration to understand the aging of plutonium in nuclear weapons.

(2) The Administrator shall make available to the FFROC contractor under this subsection all information that is necessary for the contractor to successfully complete a meaningful study on a timely basis.

(b) REPORT REQUIRED.—(1) Not later than two years after the date of the enactment of this Act, the Administrator shall submit to Congress a report on the findings of the study on the efforts of the Administration to understand the aging of plutonium in nuclear weapons.

(2) The report shall include the recommendations of the study for improving the knowledge, understanding, and application of the fundamental and applied sciences related to the study of plutonium aging.

(3) The report shall be submitted in unclassified form, but may include a classified annex.

AMENDMENT NO. 3434, AS MODIFIED

(Purpose: To express the sense of the Senate on the effects of cost inflation on the value range of the contracts to which a small business contract reservation applies)

On page 164, after line 18, insert the following:

SEC. 816. SENSE OF THE SENATE ON EFFECTS OF COST INFLATION ON THE VALUE RANGE OF THE CONTRACTS TO WHICH A SMALL BUSINESS CONTRACT RESERVATION APPLIES.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) in the administration of the requirement for reservation of contracts for small businesses under subsection (j) of section 15 of the Small Business Act (15 U.S.C. 644), the maximum amount in the contract value range provided under that subsection should be treated as being adjusted to the same amount to which the simplified acquisition threshold is increased whenever such threshold is increased under law; and

(2) the Administrator for Federal Procurement Policy, in consultation with the Federal Acquisition Regulatory Council, should ensure that appropriate governmentwide policies and procedures are in place—

(A) to monitor socioeconomic data concerning purchases made by means of purchase cards or credit cards issued for use in transactions on behalf of the Federal Government; and

(B) to encourage the placement of a fair portion of such purchases with small businesses consistent with governmentwide goals for small business prime contracting established under section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINED.—In this section, the term ''simplified acquisition threshold'' has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

AMENDMENT NO. 3401

(Purpose: To amend the Federal Fire Prevention and Control Act of 1974 to provide financial assistance for the improvement of the health and safety of firefighters, promote the use of life saving technologies, and achieve greater equity for departments serving large jurisdictions)

(The amendment is printed in the RECORD of Monday, June 7, 2004)

AMENDMENT NO. 3237, AS MODIFIED

(Purpose: To ensure fairness in the standards applied to members of the Army in the awarding of the Combat Infantryman Badge and the Combat Medical Badge for service in Korea in comparison to the standards applied to members of the Army in the awarding of such badges for service in other areas of operations)

On page 86, between lines 9 and 10, insert the following:

SEC. 543. PLAN FOR REVISED CRITERIA AND ELIGIBILITY REQUIREMENTS FOR AWARD OF COMBAT INFANTRYMAN BADGE AND COMBAT MEDICAL BADGE FOR SERVICE IN KOREA AFTER JULY 28, 1953.

(a) REQUIREMENT FOR PLAN.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for revising the Army's criteria and eligibility requirements for award of the Combat Infantryman Badge and the Combat Medical Badge for service in the Republic of Korea after July 28, 1953, to fulfill the purpose stated in subsection (b).

(b) PURPOSE OF REVISED CRITERIA AND ELIGIBILITY REQUIREMENTS.—The purpose for revising the criteria and eligibility requirements for award of the Combat Infantryman Badge and the Combat Medical Badge for service in the Republic of Korea after July 28, 1953, is to ensure fairness in the standards applied to Army personnel in the awarding of such badges for Army service in the Republic of Korea in comparison to the standards applied to Army personnel in the awarding of such badges for Army service in other areas of operations.

AMENDMENT NO. 3279, AS MODIFIED

(Purpose: To require a report on any relationships between terrorist organizations based in Colombia and foreign governments and organizations)

On page 269, between lines 2 and 3, insert the following:

(f) REPORT ON RELATIONSHIPS BETWEEN TERRORIST ORGANIZATIONS IN COLOMBIA AND FOREIGN GOVERNMENTS AND ORGANIZATIONS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall, in consultation with the Secretary of Defense and the Director of Central Intelligence, submit to the congressional defense committees and the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report that describes—

(A) any relationships between foreign governments or organizations and organizations based in Colombia that have been designated as foreign terrorist organizations under United States law, including the provision of any direct or indirect assistance to such organizations; and

(B) United States policies that are designed to address such relationships.

(2) The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

AMENDMENT NO. 3279

Mr. NELSON of Florida. Mr. President, I rise to address amendment No. 3279 to the pending bill. This amendment asks the administration to report on any relationships between foreign governments or groups operating within their territories and foreign terrorist organizations in Colombia. It also asks the administration to describe United States policies that are designed to address such relationships.

This amendment, tragically, is extremely timely in light of today's news. This morning's Miami Herald reported that in Little River, Colombia, in the province of Norte de Santander, over 30 peasants were murdered in cold blood. Terrorists entered their residencies and shot them to death with automatic weapons. The FARC is suspected to have committed this crime. While Colombia, with tremendous support of the U.S., has made great strides in fighting narcoterrorism under President Uribe, there is still much work to be done, as is underscored by yesterday's events.

The FARC and the ELN, Colombia's two main rebel groups, both of which have been designated by the United States as foreign terrorist organizations, continue to conduct terrorist attacks against civilians in their campaign against the Colombian government. These groups are also heavily involved in the drug trade that does so

much harm to Colombia and to our own country. At a time when Colombia is making slow but steady gains in its long struggle against the FARC, the last thing it needs is to have neighboring countries providing assistance to these brutal adversaries.

To be perfectly blunt, my primary concern is with Venezuela. On my visit to Colombia and Venezuela in April, I heard some disturbing accounts from various U.S. officials of instances in which the FARC had been able to cross the line into Venezuela and conduct operations from that side of the border from virtual safe havens. Colombian authorities are also suspicious that the Chavez government has been willing to, at a minimum, look the other way while FARC elements operate in Venezuela, if not actually permitting some level of coordination.

Threatening to compound the ''safe haven'' problem for the United States and Colombia is the fact that Venezuela also harbors a potent market in false documentation, such as passports and other identity cards. I am increasingly concerned at the ease with which, simply by buying off officials for $800 or $900, one can acquire fully legitimate, yet false, documents in Venezuela—everything from a passport to a driver's license. I am certainly concerned that international terrorist groups will discover their ability to acquire and make use of forged Venezuela documents to conduct terrorist attacks, and I raised these important issues with Venezuelan officials during my visit.

Naturallly, the Venezuelan government disputes these serious allegations. What this amendment would do is help us establish the facts. If groups in Colombia that our government has designated as foreign terrorist organizations are receiving support or assistance from Venezuela, or any of Colombia's other neighbors, or any other state for that matter, we need to know about it and adjust our policies accordingly.

Right now, Colombia needs all the help it can get from its neighbors. In asking the administration to report on whether terrorist groups may have relationships with or be operating in neighboring countries such as Venezuela, perhaps we can address this problem in a more regional context and better understand what Colombia is up against.

I thank the chairman and ranking member and their staffs for their support.

AMENDMENT NO. 3401

Mr. DODD. Mr. President, it is my understanding that Senate amendment No. 3401 is acceptable to both the chair and ranking member. This amendment would reauthorize the Assistance to Firefighters Grant Program, or the FIRE Act, for the next 6 years.

It is based on bipartisan legislation introduced by Senator DEWINE and myself on May 11, 2004. The bill, S. 2411, currently has 39 co-sponsors, including the distinguished Chairman and Ranking Member of the Senate Armed Services Committee.

As many of our colleagues know, the Senate approved by unanimous consent the original FIRE Act as part of the Defense Authorization bill 4 years ago. There is some precedent, then, for this amendment to the current Defense Authorization bill, despite the fact that the legislation falls under the jurisdiction of the Senate Commerce Committee.

Unless Congress quickly reauthorizes the FIRE Act grant program, it will expire at the end of the current fiscal year on September 30, 2004. If this legislation is not quickly enacted, fire departments throughout the Nation will not receive the assistance they need to fight fires, save lives, and protect their own.

I have consulted with the distinguished Chairman of the Senate Commerce Committee about the urgency of reauthorizing the FIRE Act before the fiscal year ends. He is fully aware of the fact that we have precious few legislative days left on the Senate Calendar. Accordingly, he has indicated to me his intention to hold a hearing on the reauthorization bill on July 8, with a markup to follow before the August recess.

Assuming that this schedule holds firm, my expectation is that legislation passed by the Commerce Committee would take the place of amendment No. 3401. In the event that work on the Defense Authorization Act is not completed this year, I am also prepared to move the FIRE Act reauthorization as a free-standing bill. Alternatively, should the Commerce Committee not act on this legislation, the Senate will have at least acted to reauthorize the FIRE Act adopting amendment No. 3401.

In closing, I thank Senator MCCAIN for his leadership on this issue, and his unwavering commitment over the years to advancing the cause of firefighters. I also commend Chairman WARNER and Senator LEVIN for their willingness to help the Nation's fire services on the Defense Authorization bill both today and 4 years ago. Finally, I would like to express my appreciation to Senator HOLLINGS for his wise counsel and strong support for the FIRE Act initiative.

I yield to the distinguished Senator from Virginia.

Mr. WARNER. Mr. President. I thank the Senator from Connecticut. I am prepared to accept this amendment based on the understanding he has reached with the distinguished Chairman of the Commerce Committee.

As Senator DODD indicated, the Commerce Committee plans to hold a hearing on the FIRE Act on July 8, with a markup expected shortly thereafter. I look forward to working with Senators MCCAIN, DODD, and DEWINE to ensure that this important legislation to help our Nation's fire departments is enacted into law this year.

Mr. MCCAIN. I thank the distinguished Chairman of the Armed Services and my friend from Connecticut for the opportunity to work with them to reauthorize this important program.

As Chairman of the committee of jurisdiction over the Assistance to Firefighters Grant Program, I am familiar with this program's success. This program provides grants to local fire departments using a competitive, merit-based review process. I agree with my colleagues that this program is an example of a well-run government program that should be reauthorized, and am proud to be a cosponsor of S. 2411.

I have consented to allow Senator DODD's amendment be added to this important legislation as a placeholder. The Senate Commerce Committee intends to hold a hearing on S. 2411 on July 8, 2004, and then we expect to report the bill out of Committee by the August recess. It is my intention that this reported version of S. 2411 be used to replace the placeholder during the conference for S. 2400.

I thank Senators DODD, WARNER, and DEWINE for their leadership on this issue, and look forward to working with them to pass this legislation this year.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. WARNER. Before the Senator from New York speaks, I wonder if I might get the attention of the distinguished whip?

If we can have assurance, as the managers depart the floor, to do some other work, that this will be the final action on this bill tonight?

Mr. REID. I will indicate, as both managers know, tomorrow Senator LAUTENBERG is going to offer two amendments, Senator DURBIN is going to offer two amendments, Senator REED is going to offer his amendment, if he so chooses, on missile defense, and I am going to offer my amendment on current receipts.

Mr. WARNER. Mr. President, the distinguished Senator from Nevada went over that with me, and that strikes me as a very good day. If a Republican Senator desires an amendment, we will work him or her into the queue as the case may be.

Mr. REID. Absolutely.

Mr. WARNER. Then we might mention also the schedule for Monday?

Mr. REID. On Monday, we have Senator LEVIN, Senator DAYTON, Senator BYRD, and Senator BINGAMAN, and there may be others as the day progresses.

Mr. WARNER. That is correct. These are the amendments that have been forthcoming on the other side of the aisle.

I am prepared to assist my colleagues on this side if they have matters, but we are really working toward what the majority leader, in consultation with

the distinguished Democratic leader, indicates. We are going to conclude this bill on Tuesday.

Mr. REID. We will do our very best—Tuesday night or Wednesday morning. But we are doing quite well.

Mr. WARNER. It is largely due to the tremendous cooperation on both sides. So we have the assurance that this will be the completion of the work tonight?

Mr. REID. Absolutely.

Mr. WARNER. I thank the distinguished leader.

Mr. REID. There will be no more votes. The Chair already announced that. Can the Senator from New York be recognized for 5 minutes?

The PRESIDING OFFICER. Is there objection? The Senator from New York is recognized for 5 minutes.

Mr. WARNER. And the Senator from Missouri wishes to speak for how many minutes?

Mr. TALENT. I would like 5, but I probably will not use them.

Mr. WARNER. Five minutes to follow the Senator from New York.

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

Mr. REID. If the Senator will yield for a unanimous consent, I ask unanimous consent the Senator from North Dakota, Mr. CONRAD, be added as a cosponsor to amendment No. 3432, which has already been agreed to.

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

AMENDMENT NO. 3163, AS MODIFIED

Mrs. CLINTON. Mr. President, I rise to thank the chairman and ranking member for the work they and their staffs have done, along with the Senator from Missouri and myself and our staffs, to accept an amendment that addresses two issues critical to our men and women in uniform. First, through this amendment we are attempting to develop better policies and information in order to track the health of soldiers and others in uniform after a deployment overseas.

Second, we are seeking to improve the medical and dental readiness of our National Guard members and reservists.

Last month, Senator TALENT and I introduced the Armed Forces Personnel Medical Readiness and Tracking Act of 2004. I am delighted that many of the ideas we have advocated are included in this legislation because of our amendment.

It has been a pleasure working with my colleague on the Armed Services Committee, Senator TALENT, and with his staff.

When I was First Lady, I worked to bring attention to the problems and symptoms that many of our veterans returning from the 1991 gulf war experienced. This constellation of symptoms came to be known as the Gulf War Syndrome.

During Senate Armed Services Committee hearings in February 2003, before the current Iraq war, I asked the Chairman of the Joint Chiefs, General Myers, and each of the Service Chiefs, whether they would be monitoring and tracking the health of our soldiers who are deployed in the gulf.

They assured me they would. But I am afraid that based on reports from soldiers returning from this deployment, we have not done all we should to screen and track the health of our soldiers. Indeed, several weeks ago we had several soldiers from the 442 MP unit out of Orangeburg, NY, who are being treated at Fort Dix for injuries and symptoms they incurred in Iraq, including headache, sleeplessness, and many others.

We know very well our enemy stops at nothing. The use of Sarin in an artillery shell in Iraq last month demonstrates more than ever the need to have adequate information about the health of our young men and women.

The legislation we have championed that is being adopted seeks to establish procedures to ensure that the information is systematically collected so that, if soldiers return exhibiting certain symptoms, there will be a base of information on which we can determine what could have caused that.

The amendment requires the Department of Defense to develop a comprehensive plan to improve medical readiness and tracking before, during, and after deployment. It establishes a Joint Medical Readiness Oversight Committee to advise the Secretary of Defense on the medical readiness and health status of members of the active Reserve components.

It requires compliance of the Armed Forces with medical readiness and tracking policies. It requires that we develop and implement the annual readiness plan.

The committee will include DOD officials and experts in the military service organizations, veterans service organizations, and civilians.

Finally, current law requires the information about the health of soldiers returning from deployment to be collected, but it appears these provisions are not being enforced. So we require audits of blood serum collection programs, as well as the predeployment and postdeployment health assessment database that DOD is supposed to maintain.

These problems have come to light because of our many Guard and Reserve members who have been deployed, and we are finding too many examples where they don't have the requisite medical readiness and where they are not sufficiently tracked.

This is an effort to do what we should do—the right thing to treat our young men and women in uniform. I am hoping it provides a good base for us to learn more about what they are supposed to do during their deployment in the gulf and elsewhere around the world.

I thank my colleague from Missouri as well as the chairman and ranking member for working with us and I look forward to seeing this implemented to further the health of our young men and women.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. TALENT. Mr. President, I wish to say a few words on our amendment, but before I do that, let me take a minute to compliment again Senator BOND, who laid down the amendment and Senator HARKIN for cosponsoring it, to assist former employees in Iowa and Missouri who were affected because they worked in plants that produced the atomic materials from which we made the atom bombs which won the war and then kept us safe.

Because of their exposure to the radiation, they have become ill and they deserve compensation. They are not getting it because of the convoluted procedures that are currently in place. We simply want to allow them to be treated separately as already occurs with employees in the four States.

I admire the way Senator BOND has fought like a tiger for those employees. I have joined him in doing that.

I appreciate the work of the managers of the bill in trying to figure out a way to accept that amendment. I hope we can, indeed, do that. It is just a matter of justice for these employees.

I also wish to speak for a moment about the amendment which Senator CLINTON and I offered based on the legislation which we sponsored together some weeks ago. I want to return her kind words and say it has been a pleasure to work with her and her staff on a strong bipartisan basis to make these changes which we think are necessary to protect the health of our men and women in the military, and also to make certain they are ready to be deployed when they need to be deployed. Those are the two things we are trying to do.

Before employees, service men and women are deployed to combat theaters, we require that a blood sample be drawn from them, and after they return that another blood sample be drawn from them.

The point is, it has happened too often in the past where service men and women coming back from active duty show signs and symptoms of illness, and we can't figure out what is wrong. We need baseline blood tests so we can tell the extent to which their blood is deviate and their health symptoms are deviating from what they were before deployment. This will give us a clue as to what is wrong with them so we can avoid another gulf war syndrome episode.

I have had vets from Missouri over several years talking to me about this issue. We allow the military to do it today, particularly with regard to reservists and guardsmen because it is often not done because local commanders want to get them deployed and into the theater.

This is very important and now it will be the law. I am grateful to the managers of the amendment for accepting that part of the amendment.

The other point is to simply improve the health of our Active and Reserve component service men and women. We put in place a joint committee to oversee the medical tracking system that is supposed to be in place but isn't implemented as well as it should be.

We require that reservists receive detailed health assessments at least every 2 years. Right now they only get exams every 5 years.

We require routine health baselines for all our recruits entering the armed services so we will know the health status of people when they enter the military.

There are a number of other good measures as well.

I only have 5 minutes. I imagine I have used most of that.

Let us say it has been a pleasure to work with the Senator from New York and her staff. We are jointly grateful to the Senator from Virginia and the Senator from Michigan for their openness on this amendment, and we are pleased that it was agreed to and look forward to holding it through the rest of the process.

I yield my time.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3235

Mr. BROWNBACK. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. BROWNBACK] proposes an amendment numbered 3235.

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

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

The amendment is as follows:

(Purpose: To increase the penalties for violations by television and radio broadcasters of the prohibitions against transmission of obscene, indecent, and profane language)

On page 280, after line 22, insert the following:

SEC. ___. BROADCAST DECENCY ENFORCEMENT ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the ''Broadcast Decency Enforcement Act of 2004''.

(b) INCREASE IN PENALTIES FOR OBSCENE, INDECENT, AND PROFANE BROADCASTS.—Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively;

(2) by inserting after subparagraph (B) the following new subparagraph:

''(C) Notwithstanding subparagraph (A), if the violator is—

''(i)(I) a broadcast station licensee or permittee; or

''(II) an applicant for any broadcast license, permit, certificate, or other instrument or authorization issued by the Commission; and

''(ii) determined by the Commission under paragraph (1) to have broadcast obscene, indecent, or profane language, the amount of any forfeiture penalty determined under this subsection shall not exceed $275,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $3,000,000 for any single act or failure to act.''; and

(3) in subparagraph (D), as redesignated by paragraph (1), by striking ''subparagraph (A) or (B)'' and inserting ''subparagraph (A), (B), or (C)''.

Mr. BROWNBACK. Mr. President, on this amendment, I am being joined by Senator LIEBERMAN and Senator ZELL MILLER.

It is a simple issue. I want to take a few minutes to explain it. I am hopeful we will get strong support in this body as in the House. A similar bill came up earlier in the House and it passed that body 391 to 22. The same issue passed the Commerce Committee in the Senate 14 to 0 on a recorded vote.

It is an issue of fines and decency on over-the-air broadcasts—whether it be radio or television.

I think it is important to put my comments in context today by explaining the policy history of this issue; that is, decency on over-the-air public airwaves.

At the invention of television, our Nation established a public policy of providing citizens with free over-the-air television. It gave broadcasters wishing to provide that service with the use of valuable spectrum. Not everyone can broadcast over the Nation's public airwaves. These are airwaves owned by the public. That is why the statute requires the Federal Communications Commission to evaluate not just the ability but the character of an entity to operate.

When handing out a broadcast license, in return for a license, each broadcaster agrees not to air indecent or obscene content between the hours of 6 a.m. and 10 p.m. The broadcaster gets a valuable piece of spectrum, which is public property. The broadcaster gets the right to use that. In exchange, one of the requirements is they not broadcast indecent or obscene content between the hours of 6 a.m. and 10 p.m.

Fines and license revocations have always been the discipline tool available to the FCC to help enforce America's longstanding commitment to broadcast decency.

This is an issue about license. It is an issue about the use of public property, and some modest limitation of that.

We live in a nation where we hold the first amendment in high regard, as well we should. In an effort to maintain the free exchange of information, thoughts, and opinions, we strive to avoid government involvement in communications content.

At the same time, as a nation, we strive to project decency and justice for all. As a nation raising children, we do the same. With the turning of a tuning knob, or the click of a remote, minors all across America are presented with the content of the public airwaves.

Broadcasters have a legal and a moral duty to ensure that American taxpayers—and especially children—are not assaulted by explicit material.

For years, we have been asking and waiting for the broadcasters to police themselves in this effort. Unfortunately, instead of fulfilling the public interest duty, they have allowed the content to grow steadily worse and worse.

Meanwhile, the companies that own the broadcast stations have grown steadily larger—and not surprisingly. Some of these broadcasters' profit margins have made them immune to the FCC's current fine structure. Let me give you an example.

Today's maximum fine for an indecent broadcast is $27,500. That seems like a lot of money—and it is to some. But it isn't to others. Compare that fact to a 30-second commercial during the 2004 Super Bowl which cost advertisers an average of $2.3 million for a 30-second ad.

In the words of the FCC Commissioner, Michael Powell, these fines are peanuts to the big media conglomerates. That is why we are here to increase the fine structure for indecency and obscene broadcasts. The threat of these fines will be taken seriously and force broadcasters to protect their consumers from explicit content.

Nothing in this amendment forges any new ground in broadcast decency law. The intent is simple: To increase the fines for indecent broadcasts to mask the realities of today's media markets. This amendment would increase the maximum fines tenfold, from $27,500 to $270,000, with a maximum $3 million cap per incident per day.

Why do we need to do this? We need this amendment to end the growing volume of graphic content on free over-the-air broadcasts. Remember, broadcasters profit from exclusive and free use of the public airwaves which gives them unique access to all Americans, particularly America's youth. With that access to our country's intellectual, moral, and social development comes a set of moral and social responsibilities and obligations that are agreed to in the licensing process.

I am very disappointed by the apparent confusion the broadcasters are having between the right to do something and the right thing to do when it comes to the public airwaves.

Recently, FOX and VIACOM announced they were going to appeal the FCC Bono ruling so they can use the ''F'' word on broadcast television. This is their response in spite of the fact that the FCC overturned the original rule in response to a fierce public outcry.

This hostile response the public is getting from broadcasters is inexcusable. We see time and again media leaders defending their profit-driven

motives by airing explicit content and then falsely hiding behind their so-called first amendment rights. Broadcasters have joined the shock jocks of the country to shout down those who publicly question harmful content as an anti-first-amendment censor. In abandoning their duty to adhere to decency standards, broadcasters point to the absence of decency regulations on cable television. This is just a red herring. We are talking about public airwaves and a public right to air decent material.

The broadcasters argue they have a right to air indecent, obscene, and profane material. But that is a disgraceful abuse of the first amendment. I support the first amendment and its guarantees of free speech. It is the basis of much of the freedoms we enjoy in our great democracy. But there are limits, and particularly here, where we are dealing with a public license and the use of public property where the licensee has agreed to not broadcast indecent material.

This principle has been affirmed by the Supreme Court of the United States in the famous Pacifica case where it was upheld that the Government had the right to protect the public airwaves. This case came to the Court in the early 1970s when George Carlin's famous ''filthy words monologue'' was broadcast during the middle of the day on a New York radio station owned by Pacifica Foundation. A father driving with his son heard the broadcast and complained to the FCC. The FCC said that if those kinds of words were used again, the radio station airing them would be fined. Just like today, the broadcasters challenged the ruling and the case went all the way to the Supreme Court. The Court upheld the FCC action and added that it could continue to fine broadcasters in the future because broadcasters had to take special care not to air material that would offend or shock children.

The majority opinion stressed that of all the forms of communication, broadcasting has the most limited first amendment protection because it extends into the privacy of the home and is uniquely accessible to children.

The FCC has been too lax for too long enforcing the law on broadcasters. A recent public outcry has been a wake-up call for the FCC. The Commission told us they do not have all the tools they need for effective enforcement. That is why we are here today.

Passing this legislation will tell the broadcasters that we are serious about protecting our airwaves and we will give the FCC updated tools to get the job done. I don't know if I need to remind my colleagues that this came to the forefront at this year's Super Bowl, an event families across the country watch together. At the halftime show, the incident between Justin Timberlake and Janet Jackson set off a firestorm that had been brewing for a long period of time.

Finally people said: Look, I have had enough; I don't want to see this any more, particularly when I am watching TV with my family. That is what launched this forward.

We have been waiting for years for the broadcasters to voluntarily take care of this growing problem. They have failed. Instead, they are fighting tooth and nail for the availability to air graphic material so they can increase their profit margins.

America deserves better. That is why we need to make the consequences of broadcasting indecency punitive so the standards are no longer ignored.

I urge my colleagues to vote for this amendment. Increasing the fines will help clean up our Nation's free, over-the-air television and radio by holding accountable broadcasters who use the public airwaves and individuals who use the opportunity of a live performance to gain notoriety through indecent acts.

As I noted previously, this has been considered by the Senate Commerce Committee and it has passed unanimously in that committee. It has been considered previously by the House of Representatives, which has voted 391 in favor with only 22 against increasing these fines. They actually have some teeth in today's marketplace. I urge my colleagues to vote for this amendment.

I ask for the yeas and nays when we vote on this Monday. I further ask unanimous consent that when we go back to this amendment on Monday that I be recognized first to speak if there are any further amendments that are proposed to this that are to be considered on Monday.

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

The Senator has requested the yeas and nays.

Mr. BROWNBACK. Mr. President, I have been informed that we need colleagues on the other side to respond to yeas and nays and I will not ask for that until we do get that agreement from my colleagues on the other side of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, I send to the desk a second-degree amendment to the pending amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS], for himself and Mr. ENSIGN, proposes an amendment numbered 3457 to amendment No. 3235.

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

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

The amendment is as follows:

At the end of the amendment, add the following:

SEC. . ADDITIONAL FACTORS IN INDECENCY PENALTIES; EXCEPTION.

Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)), as amended by section 102 of this Act, is further amended by adding at the end the following:

''(F) In the case of a violation in which the violator is determined by the Commission under paragraph (1) to have uttered obscene, indecent, or profane material, the Commission shall take into account, in addition to the matters described in subparagraph (E), the following factors with respect to the degree of culpability of the violator:

''(i) Whether the material uttered by the violator was live or recorded, scripted or unscripted.

''(ii) Whether the violator had a reasonable opportunity to review recorded or scripted programming or had a reasonable basis to believe live or unscripted programming would contain obscene, indecent, or profane material.

''(iii) If the violator originated live or unscripted programming, whether a time delay blocking mechanism was implemented for the programming.

''(iv) The size of the viewing or listening audience of the programming.

''(v) The size of the market.

''(vi) Whether the violation occurred during a children's television program (as such term is used in the Children's Television Programming Policy referenced in section 73.4050(c) of the Commission's regulations (47 C.F.R. 73.4050(c)) or during a television program rated TVY, TVY7, TVY7FV, or TVG under the TV Parental Guidelines as such ratings were approved by the Commission in implementation of section 551 of the Telecommunications Act of 1996, Video Programming Ratings, Report and Order, (CS Docket No. 97–55, 13 F.C.C. Rcd. 8232 (1998)), and, with respect to a radio broadcast station licensee, permittee, or applicant, whether the target audience was primarily comprised of, or should reasonably have been expected to be primarily comprised of, children.

''(G) The Commission may double the amount of any forfeiture penalty (not to exceed $550,000 for the first violation, $750,000 for the second violation, and $1,000,000 for the third or any subsequent violation not to exceed up to $3,000,000 for all violations in a 24 hour time period notwithstanding section 503(b)(2)(C)) if the Commission determines additional factors are present which are aggravating in nature, including—

''(i) whether the material uttered by the violator was recorded or scripted;

''(ii) whether the violator had a reasonable opportunity to review recorded or scripted programming or had a reasonable basis to believe live or unscripted programming would contain obscene, indecent, or profane material;

''(iii) whether the violator failed to block live or unscripted programming;

''(iv) whether the size of the viewing or listening audience of the programming was substantially larger than usual, such as a national or international championship sporting event or awards program;

''(v) whether the obscene, indecent or profane language was within live programming not produced by the station licensee or permittee; and

''(vi) whether the violation occurred during a children's television program (as defined in subparagraph (F)(vi)).''.

Mr. BURNS. This is a friendly second-degree amendment. We have talked about and, of course, we know that the bill that has been voted out of the committee and is waiting for floor action moves this along.

We were all shocked and dismayed over the spectacle at the Super Bowl this year. Those responsible should be severely punished for such a vulgar display of tastelessness.

That being said, this high-profile, well-publicized incident could prompt

Congress to go too far. In some areas of this bill, we did go too far. This second-degree amendment fixes that.

While I fully support the underlying Brownback legislation, I am offering this second-degree amendment to protect the interests of small broadcasters that should not be punished for the events outside of their control.

I am sorry I did not see the halftime show during the Super Bowl. I saw who it was going to be. It was put on by MTV, which I never watch, for very good reason. It ought to be a pay channel. I moved over to the poker tournament on ESPN, so I missed the whole spectacle. But, nonetheless, lots of families did not.

In the case of the Super Bowl, for example, many affiliates were furious their viewership was exposed to such a spectacle. The amendment I offer simply calls on the FCC to consider the size and revenues of the stations in question, as well as whether they had anything to do with producing the offensive content in question. In other words, we have small market television stations that have no control on content but may find themselves in a lawsuit for indecent content that might be broadcast.

Finally, I believe, as we approach these issues, we must take a hard look at the declining standards across all media. I understand there have been industry efforts to develop indecency guidelines that will apply fairly and evenly across all media platforms that distribute content. I think this approach could prove enormously beneficial in setting unified standards so individual broadcasters understand what is expected of them. Additional clarity in terms of content standards would also eliminate excuses among those who choose to push the envelope, the limits of vulgarity for commercial gain.

Nothing in the broadcast industry has been talked about so much as the halftime at this year's Super Bowl. It has absolutely been on the minds of broadcasters across this country.

The American people clearly expect Congress to act on the indecency issue. So I call on my colleagues to adopt this second-degree amendment I have offered, which will help to produce real solutions without unduly penalizing small broadcasters.

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. BROWNBACK. 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. BROWNBACK. Mr. President, in speaking to the Burns second-degree amendment, this is an amendment that was considered in the Commerce Committee and added to the base bill at that time. What he is proposing to do makes a lot of sense. I do not see a problem with that at all, so I would be supportive of doing that.

Overall, we want to get this to move it forward. The House has moved on this action. The FCC is seeking this authority. So we really want to try to get this to move on through the process, if at all possible. We are not having further rollcall votes until Monday, so we will proceed at that time, and I will ask for a rollcall vote then.

Mr. GREGG. Mr. President, earlier today the Senate adopted the Murray amendment No. 3427, to facilitate the availability of childcare for the children of members of the Armed Forces on active duty in connection with Operation Iraqi Freedom or Operation Enduring Freedom.

I support that amendment but wanted to additionally acknowledge efforts that are already underway in the private sector to help support those who are risking their lives to keep us safe.

I would like to speak about the American spirit. We are a people who can do great things when united. We have witnessed this in recent months with dozens of home-front stories of the many great deeds of Americans in support of our troops and our Nation's efforts abroad in the war on terror.

There is Spirit of America, a private group which set out to raise $100,000 to build TV stations in Iraq. Americans responded with thousands of donations totaling $1.52 million. Federal Express donated the domestic shipping costs of the equipment for this gift to the country of Iraq. Those stations are being built now and will offer the Iraqi people a national and independent news source that is not Al-Jazeera. This is great.

This American spirit is also responsible for the gift of 10,000 school supply kits, 3 tons of medical supplies, and 2 tons of 'friendship' Frisbees to the Iraqi people, all paid for and donated by Americans.

You hear about American students donating books to Iraqi schools and sending letters to Iraqi children.

And now, thousands of childcare providers have united across the country to donate childcare services to National Guard and Reserve members home on 2 week R&R leave from Iraq and Afghanistan to allow them to carry out personal business, take their spouses out on a date, or enjoy other recreational activities while they are home.

Operation Childcare is an effort of the Nation's network of childcare resource and referral, NACCRRA, their local agencies, and thousands of childcare providers across the country to give back to those men and women who are fighting to keep us safe. This program was designed for those members of the military who do not live near military bases and therefore do not have access to family support programs provided to Active-Duty personnel.

So far, over 4,700 centers and individual providers have signed on to Operation Childcare. In my home State of New Hampshire there are 35 providers who are donating childcare to our guardsmen and reservists. These numbers continue to grow, as more people hear about the program.

Childcare providers who volunteer their time for Operation Childcare will receive official recognition, but I suspect many would agree with one childcare provider in Tennessee who said:

> You don't have to recognize me—I am just thrilled and honored to be able to do something to help our troops.

NACCRRA should be applauded for their efforts in organizing this service for our service members.

This is but a snapshot of the home-front efforts being carried out by thousands of Americans across this country. The American people are truly united behind our men and women in uniform. This is the American spirit that continues to inspire.

Mr. DEWINE. Mr. President, I am pleased to put my full support behind an agreement made between Senators DODD, MCCAIN, WARNER, LEVIN, and HOLLINGS to attach the Assistance to Firefighters Act of 2004, as amendment No. 3309, to the pending Department of Defense Authorization bill.

Each day, we entrust our lives and the safety of our families, friends, and neighbors to the capable hands of the brave men and women in our local police departments. These individuals are willing to risk their lives and safety out of a dedication to their citizens and their commitment to public service.

We ask local firefighters to risk no less than their lives, as well, every time they respond to an emergency fire alarm, a chemical spill, or as we saw on September 11—terrorist attacks. We ask them to risk their lives responding to the nearly 2 million reports of fire that they receive on an annual basis. Every 18 seconds while responding to fires, we expect them to be willing to give their lives in exchange for the lives of our families, neighbors, and friends. One hundred firefighters lost their lives in 2002 in the line of duty, and nearly 450 lost their lives in 2001. The unyielding commitment these individuals have made to public safety surely deserves an equally strong commitment from the Federal Government.

In 2000, Congress affirmed the value of having a properly trained, equipped, and staffed fire service by passing the Firefighter Investment and Response Enhancement, FIRE, Act—legislation that Senator DODD and I introduced, along with Congressmen PASCRELL, WELDON, and many others, on the House side. In the 4 years since the FIRE Act became law, fire departments have made significant progress in terms of filling the substantial needs outlined in the National Fire Protection Association's ''needs assessment.''

To date, Congress has appropriated nearly $2 billion dollars for the FIRE Act program. Virtually every penny of

that amount has gone directly to local fire departments through FIRE grants to provide firefighter personal protective equipment, training to ensure more effective firefighting practices, breathing apparatus, new firefighting vehicles, emergency medical services supplies, fire prevention programs, and other important uses.

The direct nature of the FIRE Act grant program—funds literally go straight from the Federal Government to local fire departments—is an extremely important aspect of the law, particularly in light of the difficulties we are seeing with other homeland security grant programs getting money to flow directly to the intended recipients.

FIRE Act grants are awarded based on a competitive, peer-review process that helps ensure that the most important needs are filled first and that funding will be used in an effective manner. I am proud to note that 86 of Ohio's 88 counties have received FIRE Act funding up to this point and that the fire service in my home state is much better prepared to respond to emergencies as a result. The bottom line is this: The FIRE Act program has proven to be an extremely valuable tool for fire-based first responders.

The time has come to reauthorize this important legislation—to build upon the successes of the original FIRE Act and to refine the program where improvements can be made. Amendment No. 3309, which I am offering along with Senator DODD, accomplishes just that.

Our amendment focuses on four central themes. First, we take steps to make the grant program more accessible for fire departments serving small, rural communities and to eliminate barriers to participation faced by departments serving heavily populated jurisdictions. Second, we codify changes made in program administration since its transfer to the recently created Department of Homeland Security. Third, the amendment increases the emphasis within the program on life-saving Emergency Medical Services and technologies. And fourth, we evaluate the program through a series of reports to help ensure that resources are targeted to the areas of greatest need. These priorities have been developed jointly with the fire service, and represent a means to strengthen the FIRE Act program for years to come.

Our amendment would help the FIRE Act program more accessible for fire departments serving the very largest and smallest jurisdictions in America. Our experience over the past four years has been that a number of features in the program make participation difficult for departments serving these populations. Career fire departments, most of which serve populations well in excess of 50,000, have been receiving only a small percentage of the total grants thus far. After consulting with the fire service organizations, fire chiefs in my home State of Ohio, and officials administering the program at the Department of Homeland Security, we have found that there are two main reasons why this has been the case.

First, matching requirements for large departments, currently fixed at 30 percent, have been particularly difficult to meet. Second, current law dictates that departments—whether they serve a large city, such as Cleveland and have numerous fire stations, or a small town, such as Cedarville, OH, and have only one station—are eligible for the exact same level of funding each year: $750,000. These two elements of the current program have caused a number of large fire departments to forgo applying for FIRE grants. With respect to smaller, often volunteer-based departments serving populations of 20,000 or less, budgets are often so limited that meeting the current match is simply not possible. Many of these departments struggle with even the most basic needs, such as having an adequate number of staff available to respond to a structure fire.

Our legislation addresses each of these problems in a simple and straightforward fashion. Specifically, the amendment would reduce matching requirements by one third for departments serving communities of 50,000, and by one half for departments serving 20,000 or fewer residents in order to encourage increased participation by these departments. The amendment also would re-structure caps on grant amounts to reflect population served, with up to $2,250,000 for departments serving one million or more, $1,500,000 for departments serving between 500,000 and one million, and $1,000,000 for departments serving fewer than 500,000 residents. Together, these two changes would go a long way toward increasing the accessibility of the program for the very largest and smallest departments in the United States.

The second major component of our legislation has to do with the transfer of the FIRE Act Administration from the Federal Emergency Management Administration, FEMA, to the Department of Homeland Security, DHS. When FEMA's functions were transferred into the DHS, the FIRE grant program, along with the U.S. Fire Administration, also were transferred to DHS. As a part of that transfer, formal administration of the FIRE grant program has been delegated to the Department to the Office of Domestic Preparedness, ODP, which oversees all DHS grant programs. While the U.S. Fire Administration—the real fire experts within the Federal Government—remains involved, we need to take steps to formalize the management of the program following the transfer to DHS.

There are a number of reasons for solidifying program administration in law, chief among them being the ability of fire departments across our Nation to plan for the future, and the ability to ensure an ongoing role for fire experts in the process. First, our amendment gives the Secretary of Homeland Security overall authority for the program. This just makes sense given the Secretary's current home within ODP. Additionally, the amendment would codify in law practices currently in use by ODP—peer review by experts from national fire service organizations, a formal role for the U.S. Fire Administration, and collaborative meetings to recommend grant criteria.

These steps would benefit the program for years to come and would help bring stability to the increasingly mature FIRE grant program. Perhaps more importantly, formalizing the role of the U.S. Fire Administrator and national fire service organizations would help resolve a fundamental tension between the mission of the FIRE Act program, to improve firefighting and EMS resources nationwide for all hazards, and the mission of its caretaker, ODP, to focus on terrorism prevention and response.

It makes sense for ODP, as the central clearinghouse for grant programs within DHS, to manage the FIRE grant program. Equally so, it makes sense to build features into the program which would help ensure that the FIRE grant program will remain dedicated solely to the fire and Emergency Medical Services, EMS, communities and will not be diluted over time into a generic terrorism-prevention program. Our amendment carefully strikes this balance.

The third major focus of this amendment is on finding ways to improve safety and to save lives. We do this in a number of ways. First, we have teamed up with national fire service organizations to incorporate firefighter safety research into the fire prevention and safety set-aside program. This new research, supported by a 20 percent increase in funds for the prevention and safety set-aside, would help reduce the number of firefighter fatalities each year and would dramatically improve the health and welfare of firefighters nationwide.

Second, we place an increased emphasis on Emergency Medical Services. In most communities, the fire department is the chief provider for all emergency services, including EMS. To illustrate this point, a 2002 National Fire Protection Association study indicates that fire departments received more than seven times as many calls for EMS assistance as they did for fires. When our family members, neighbors, and friends need immediate medical help, we turn to EMS providers, and we rely on this help to be as effective and timely as possible. It is our duty in structuring the FIRE grant program, then, to do everything we can to give EMS squads the assistance they need to carry out this important mission.

Despite the overwhelming ratio of EMS calls to fire calls, the FIRE grant program has not adequately reflected the importance of EMS over the past few years, with about 1 percent of all grants going specifically for EMS purposes. While there is no question that a

number of other grants have indirectly benefited EMS and that departments do invest their own money into this service, more can and should be done through the FIRE Act to boost our EMS capabilities nationwide. To accomplish this goal, we do a number of things in the amendment, including specifically including fire-based EMS professionals in the peer review process and allowing EMS grant requests to be combined with those for equipment and training. We have already seen evidence that new, combined structure is making excellent progress this year in shifting a greater emphasis to EMS within the program.

Additionally, we include language to incorporate independent, nonprofit EMS squads into the FIRE grant program for the first time. While our work with national fire service organizations on this particular provision has been productive and is ongoing, its intent is clear—and that is to try to bring the emphasis within the FIRE grant program on EMS closer to the level of demand in the field for this life-saving service. I am pleased that we have this language in the amendment and believe that through markup in the Commerce Committee next month, and perhaps later during conference consideration of the underlying bill, we can find an even better solution for increasing support for EMS.

Third, we create a new incentive program within the FIRE Act that encourages departments to invest in life-saving Automated External Defibrillator, AED, devices. These devices are capable of dramatically reducing the number one cause of firefighter death in the line of duty—heart attacks. Our incentive program essentially says to fire departments that if you equip each of your firefighting vehicles with a defibrillator unit, we will give you a one-time discount on your matching requirement. Congress has expressed, time and again, strong support for getting these devices out to communities through various grant programs. It is our hope that we can maintain that commitment by extending support for lifesaving defibrillator technologies to fire departments across the country.

Fourth, we eliminate a burdensome and unintended matching requirement for fire prevention grants. These grants generally go to non-profit organizations, such as National SAFE KIDS, to provide for fire safety awareness campaigns, smoke detector installations in low-income housing, and other important prevention efforts. Though no match was required in the first few years of the program, a recent legal opinion from the Office of Domestic Preparedness has reversed course and instituted a 10 percent match for grantees. This unanticipated requirement, which is extremely difficult for nonprofits with limited capital, has had a debilitating effect on the prevention program and needs to be eliminated. Our legislation does just that.

Together, these commonsense features of our amendment would dramatically improve the safety of our communities, as well as the firefighters who bravely serve them.

The fourth section of this amendment centers on a comprehensive review of the FIRE grant program. This review, to be conducted in part by the National Fire Protection Association, and in part by the General Accounting Office, GAO, seeks to evaluate the program with an eye toward ensuring that resources are targeted to the areas of greatest need. A similar study by the National Fire Protection Association conducted shortly after passage of the initial FIRE Act was extremely helpful as far as identifying the nature of the fire service needs. Ultimately, this part of the amendment is about making sure that the billions of taxpayer dollars authorized by this legislation are used in the most responsible and effective manner possible.

Our amendment is a good amendment. It is comprehensive and collaboratively drafted with input from fire and emergency services experts from across the country. The National Safe Kids Campaign, the International Association of Fire Fighters, the International Association of Fire Chiefs, the National Volunteer Fire Council, the International Association of Arson Investigators, the International Society of Fire Service Instructors, and the National Fire Protection Association, among others, all support our legislation.

Furthermore, the process agreed upon between Senators DODD, MCCAIN, and WARNER for consideration of our amendment is a good process. Senator MCCAIN, in his capacity as chairman of the Committee of jurisdiction—the Commerce Committee—has graciously agreed to allow our amendment to be attached to the underlying bill, with the expectation that language reported out of his committee next month will be inserted in its place during conference negotiations. This arrangement gives our legislation the best possible opportunity to pass the Senate, with the added benefit of thorough deliberative consideration through the committee structure. I appreciate Chairman MCCAIN's, and ranking member HOLLINGS' willingness to take this approach, Senator DODD's hard work to reach a positive resolution to the matter, and Senators WARNER and LEVIN's willingness to facilitate this agreement by accepting the amendment at this time. The efforts of all three Senators deserve the praise of the firefighting community.

As was the case in 2000, the Department of Defense authorization bill has become the vehicle of choice for the FIRE Act legislation. I am optimistic that the final result this year will be the same as it was then, concluding with passage of our amendment into law. I am proud to introduce this amendment with my friend and colleague from Connecticut and look forward to working to ensure that the Federal Government increases its commitment to the men and women who make up our local fire departments. We owe them and their service and dedication nothing less than our full support.

SCIENCE & TECHNOLOGY FUNDING LEVELS

Mr. SANTORUM. Mr. President, I rise today to engage the distinguished Senator from New Mexico, Senator JEFF BINGAMAN, concerning the Department of Defense Science and Technology—S&T—program. Senator BINGAMAN and I are both former members of the Senate's Committee on Armed Services and have a deep appreciation for the importance of the Department of Defense's S&T program in meeting current and future defense needs.

Mr. BINGAMAN. The Senator from Pennsylvania is correct in noting our strong support for the Department's S&T programs. During the 106th Congress, I introduced an amendment—SA 199—cosponsored by Senators SANTORUM, KENNEDY, and LIEBERMAN, to S. Con. Res. 20, the Senate's Budget Resolution for Fiscal Year 2002, that was designed to ensure the long-term national security of the United States through a robust Department of Defense S&T program. Additionally, during the 105th Congress, I introduced an amendment—SA 2999—cosponsored by Senators SANTORUM and LIEBERMAN, to S. 2057, the Fiscal Year 1999 National Defense Authorization Act, articulating a sense of the Senate on the ideal level of funding for our Department of Defense's S&T program.

Mr. SANTORUM. The Senator from New Mexico is correct. He has been a strong advocate for our Department of Defense S&T program for many years. It is worth noting that together, we have succeeded in raising the profile of these budget accounts and helped to influence the levels requested for the S&T program in the annual budget request submitted by this and other administrations. I also want to thank Senator BINGAMAN for his support for my amendment—SA 182—to H. Con. Res. 83, the Senate's Budget Resolution for Fiscal Year 2002, which sought to increase funding devoted to the Department of Defense's Basic Research—6.1—account. It is by investing in these budget accounts that we will reap the technology benefits that will sustain our military edge over our adversaries.

Mr. BINGAMAN. We also agree that by funding these vital programs at over 3 percent of the total Defense Department budget, we will be demonstrating a commitment and leadership in an area critical to U.S. national security. Past research carried out with S&T program funding has provided the foundation for protecting U.S. military personnel and ensuring U.S. technological superiority on the battlefield. Handheld translators, unmanned systems, thermobaric bombs, and laser-guided and global positioning systems are just a few examples of the many technologies resulting from S&T investments that are used today to remove personnel from harm's way, enhance

battlespace awareness, and address new threats.

Mr. SANTORUM. Additionally, we are united in advocating continued support for these critical programs so we can meet our national security needs of tomorrow. The Department of Defense's S&T program provides a unique contribution to the job of equipping and protecting our men and women in uniform and defending America. S&T funding supports education and training for future scientists and engineers—leading to technological advancements that shape defense technologies, including engineering, mathematics, and physical, computer and behavorial sciences. Throughout the decades of the 1950s, 1960s, 1970s and 1980s, the Department of Defense and other federal agencies sustained their commitments to these investments in American universities. This investment can be measured by the number of systems relied upon by America today to project power and maintain our interests around the globe.

Mr. BINGAMAN. Furthermore, American universities offer the Department of Defense the laboratories and knowledge base necessary to successfully complete this transformation objective. The Department of Defense has historically played a major federal role in funding basic research and has been a significant sponsor of engineering research and technology development conducted in American universities.

Mr. SANTORUM. Senator BINGAMAN is correct. For over 50 years, Department of Defense investment in university research has been a dominant element of the Nation's research and development infrastructure and an essential component of the United States capacity for technological innovation.

Mr. BINGAMAN. I thank Senator SANTORUM for his observations on the importance of robust Department of Defense S&T program funding, and I urge that we continue to advocate funding the S&T program at a level of at least at 3 percent of the total Department of Defense appropriation.

Mr. SANTORUM. The Senator is correct in his statement and I too support the 3 percent S&T program funding goal.

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.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO THE SENATE AND HOUSE

Mr. FRIST. Mr. President, I would like to take a moment to thank all of the dedicated Members of the Senate family who poured their hearts into making President Reagan's final journey to the Nation's Capitol a dignified and fitting tribute.

Lawmakers and dignitaries from all corners of the globe, Supreme Court justices, Federal officials and hundreds of thousands of citizens made their way to the Rotunda last week to pay their final respects to our 40th President.

It was a solemn and stately event. Each moment radiated a sense of history. I would like to thank some of the Senate individuals whose hard work made last week possible: 1. Sergeant at Arms Bill Pickle; his deputy, Keith Kennedy; protocol officer, Becky Daugherty; Capitol information officer, Laura Parker; and the Sergeant at Arms staff; 2. Alan Hantman, the architect of the Capitol, and the Capitol Superintendent, Carlos Elias; 3. Terry Gainer and the Capitol Police who, under extraordinary pressure, maintained security with discretion and consideration; 4. Emily Reynolds the Secretary of the Senate; her deputy, Mary Suit Jones; and their hard working staff; 5. The Senate Chaplain Pastor Barry C. Black whose sonorous and reflective tributes captured the public's love for President Reagan; 6. All of the volunteers who handed out bereavement cards to the public, manned the condolence booths, and handed out water to the thousands of visitors waiting patiently to see the President; and 7. The Capitol Guide service which worked round the clock.

My sincere thanks also go to Chairman LOTT and Senator DODD. Their steady leadership over the proceedings was crucial.

Likewise, the President of the Senate and the President Pro Tempore presided over the Senate on this momentous occasion with dignity and distinction.

I also wish to extend my thanks to my colleagues in the House of Representatives. Throughout, both chambers worked closely and patiently to carry out a tribute that I think all would agree properly reflected and celebrated President Reagan's extraordinary legacy.

I specifically thank: 1. The Speaker and his dedicated staff; 2. The House Sergeant at Arms and doorkeeper, Bill Livingood; 3. The House chief administrative officer, Jay Eagen; 4. The Clerk of the House, Jeff Trandahl; and 5. The House Chaplain, Reverend Daniel P. Coughlin. His stirring remarks are now a part of America's history.

Finally, to the Reagan family: Through a bleak and solemn week-long procession, their love and respect for Ronald Reagan was a beacon to us all. The Reagan family showed an uncommon dignity and grace that raised us up and touched our hearts.

We will never forget their love. And we will never forget how Ronnie loved his Nancy, and how hard it was for her, even at the very last, to let him go.

Thank you to the Reagan family. And thank you to the man who led us so well and loved his country so deeply—Ronald Wilson Reagan, 40th President of the United States.

TRIBUTE TO THE CAPITOL POLICE

Mr. REID. Mr. President, today I want to take a moment to both thank and commend our U.S. Capitol Police for their outstanding actions during the evacuation of the Capitol complex last week.

As we now know, the decision to evacuate was made on a moment's notice when a private airplane flew into restricted airspace and could not be contacted. Our Capitol Police put the lives of the people who work in Congress ahead of their own. The Capitol and surrounding buildings were vacated within minutes.

In addition to thousands of employees and Members of Congress, hundreds of dignitaries from around the world had come to the Capitol last Wednesday to pay their respects to President Ronald Reagan. The Capitol Police executed the evacuation with efficiency and professionalism.

Fortunately, the threat proved to be a false alarm, and it was again the Capitol Police who screened and helped each individual as they reentered the buildings.

Only a few weeks ago I had the honor of speaking at the re-dedication ceremony of the Capitol Police headquarters. This would be an honor for any Senator, but it is especially so for me, because I served as a U.S. Capitol Policeman years ago.

The Capitol Police force has changed quite a bit over the years. It was founded in 1828 with three nonuniformed watchmen. Before that, only one guard protected the Capitol.

Today, more than 1,300 professionally trained men and women serve as Capitol Police officers. Their challenges have obviously become more formidable, but their main focus still lies in protecting life throughout the complex of congressional buildings, parks, and streets.

I would like to take a moment to recognize 3 Capitol Police officers who have been killed in the line of duty: Sgt. Christopher Eney was killed on August 24, 1984, during a training exercise; Jacob ''J.J.'' Chestnut was killed on July 24, 1998, while guarding his post at the Capitol; and John Gibson was killed on July 24, 1998, while protecting the lives of visitors, staff, and the Office of the House Majority Whip.

The police headquarters building is now named in honor of these 3 fallen heroes. A few weeks ago, at the rededication ceremony, I had the opportunity to meet some of the children of these men, now grown. Speaking with them reminded me of the sacrifice that these officers and their families had made.

Likewise, the events of last week reminded me that our U.S. Capitol Police officers put their lives on the line every day, to protect all of us. For that we can never thank them enough.

RUSSIA'S FALTERING DEMOCRACY

Mr. BIDEN. Mr. President, I rise today, regretfully, to discuss the faltering state of democracy in Russia. I say ''regretfully,'' because during my more than 31 years in the U.S. Senate, I have consistently striven to improve relations between our country and Russia.

For example, a few years ago, despite severe U.S. budgetary constraints and significant foreign policy differences with Moscow, I introduced legislation that when enacted substantially increased funding for Muskie Fellowships for graduate students from Russia.

During my time in the Senate—which has spanned the last decade of Brezhnev, the brief ruling periods of Andropov and Chernenko in the early 1980s, the lengthier and stormy tenures of Gorbachev and Yeltsin, and since 2000 the era of Vladimir Putin—I have always believed that a constructive relationship with Russia is in the best interest of that great country, and is a vital national interest of the United States.

During the Soviet period our ties were based overwhelmingly on strategic considerations. Moscow and Washington had huge, redundant nuclear arsenals that, if ever used, would have ''made the rubble bounce''—that is, would have gone a long way toward destroying life on this earth as we know it.

The focus of our diplomacy, particularly of our arms control negotiations, was to make that ultimate horror scenario impossible.

But we had no illusions about making the Soviet Union a genuine partner in anything more than in that narrow strategic sense. Whether or not one fully concurred with President Reagan's memorable description of the U.S.S.R. as an ''evil empire,'' no one could have asserted that it in any way resembled a democracy, anchored by the rule of law, with civil liberties and human rights for all its citizens.

In fact, after the signing of the Helsinki Final Act in 1975, the United States effectively utilized the so-called ''Basket Three'' of that document to publicly hold the Soviet Union accountable for its violations of human rights and civil liberties.

Great hopes for change accompanied the collapse of the Soviet Union at the end of 1991 and Boris Yeltsin's successor government in the Russian Federation. Although the lid did come off of the worst of state repression, Yeltsin's tenure was marred by widespread corruption, which discredited democratic reform in the eyes of many Russians.

Yet Yeltsin, for all his failings, did successfully make the difficult personal transition from communist to democrat. Given time, Russia's political system held—and still holds—the promise of evolving into a genuine democracy.

That potential, unfortunately, has not only not been utilized, it has been systematically stifled by Yeltsin's hand-picked successor, Vladimir Putin.

In his 4½ years in power, Mr. Putin, an intelligent and street-smart former agent of the KGB, has developed a system known as ''managed democracy.'' Aside from the unintended irony of this oxymoronic construct, in practice it is long on ''managed'' and short on ''democracy.'' In essence, Russians are witnessing a rollback of the civil liberties they enjoyed during the 1990s.

Both the 2003 parliamentary elections and the March 2004 presidential election were described as seriously flawed by international observers.

The Putin government has selectively and ruthlessly utilized its prosecutorial powers to silence incipient rivals and thereby intimidate other potential opponents. The most celebrated case is that of Mikhail Khodorkovsky, former head of Yukos Oil, Russia's most modern, Western-like private company. Mr. Khodorkovsky's principal sin appears to have been his belief that a wealthy man had the right to engage in Russian political life as a potential alternative to Putin by funding independent, non-governmental organizations.

The imprisonment and legal proceedings against Khodorkovsky have violated virtually every canon of fairness and legality. His trial on tax evasion charges, which opened on Wednesday in Moscow, was scheduled to be held in a cramped courtroom in a blatant move to restrict access to outside observers.

In a speech late in May, President Putin delivered an ominous warning to Russian organizations that defend democracy and human rights for allegedly serving ''dubious'' interests and receiving financial support from the West.

Putin has also used financial gimmicks to eliminate the major, independent national television stations in Russia, leaving only a handful with local audiences. Earlier this month the most popular and outspoken surviving Russian television journalist was fired.

As a result of this repressive media policy, Russian viewers have long since been denied objective coverage of world events, especially of the brutal war being waged by their army in Chechnya.

In that context, President Bush's answer last week to a question at a G–8 press conference in Sea Island, GA, is disturbing. The President said that the G–8 leaders were ''united by common values.'' He went on to explain: ''We do agree on a free press. We don't necessarily agree with everything the free press writes, but we agree on a free press.''

The ancient Greeks used irony as a rhetorical device by attributing a positive characteristic to negative reality. The Black Sea was called ''the peaceful sea'' precisely because, in actuality, it was so stormy. We moderns might call it ''the power of wishful thinking.''

I hope that is what President Bush was doing—subtly pushing Putin into behaving like a member of the G–8 club, to which Russia now belongs despite its mid-size economy, which, absent extraneous political criteria, would not qualify it for membership.

For although the Russian newspaper scene is still vibrant, as I have just described, its electronic media are anything but free. And, as in the majority of other countries, most citizens of the Russian Federation get their news from television, not from newspapers.

Some observers fear a crackdown on the print medium and perhaps even on foreign broadcaster journalists based in Russia.

As for supposed overall ''common values,'' the most recent report on Russia in ''Nations in Transit 2004,'' published by Freedom House, shows Russia slipping from poor to very poor during calendar year 2003 in 5 of 6 categories: electoral process; civil society; independent media; governance; and constitutional, legislative, and judicial framework. The only category in which it did not fall was corruption, and there it remained mired at an extremely poor level.

I hope, therefore, that Putin will not misconstrue President Bush's off-the-cuff answer in Sea Island as license to continue his own undemocratic domestic policies.

As several American commentators and newspaper editorials have discussed, Russia's inclusion in the G–8 since the late 1990s is not irreversible. Its economy certainly does not qualify it for membership, and if it persists in violating the ''common values'' to which it pays lip service, the United States and its democratic allies may decide to return to the G–7 format.

I hope it does not come to that.

I thank the Chair and yield the floor.

PLEDGE OF ALLEGIANCE CASE

Mr. BROWNBACK. Mr. President, I would like to applaud the decision by the Supreme Court yesterday dismissing the Pledge of Allegiance Case and affirming a student's right to say the pledge with the phrase ''One Nation Under God.'' The majority decision concluded that the Court lacked jurisdiction over Mr. Newdow's claim of injury since Mr. Newdow is merely a noncustodial parent with no decision-making authority over his daughter's education.

The Court, of course, chose to sidestep the larger issue presented by the case. If you recall, Mr. President, the Ninth Circuit's stunning decision was deeply troubling to many Americans when it was first announced in 2000. The Ninth Circuit, unable to legally address the issue of relationship between the father and the daughter, simply decided that Mr. Newdow had a fundamental right to have his child shielded in public school from religious views that differ from his own.

Never mind that such a right has not been articulated before, and certainly not within the context of a noncustodial relationship, but more importantly, a right of such magnitude has

breathtaking implications for the future relationship between the Federal judiciary and public education. For one thing, any disenchanted parent similarly offended by what their children are taught in public schools could run to the Federal courts and clog the system with litigation. Mr. Newdow's objection to the Pledge of Allegiance is that it supports the historical fact that this Nation was founded on a belief in monotheism; the Pledge of Allegiance simply reflects that singular and important fact about this Nation and about us. As a matter of law, injury of the kind alleged by Mr. Newdow must be direct and palpable. Having an unorthodox interpretation of historical fact certainly does not rise to a level which would confer article III standing.

But even if we assume that Mr. Newdow had standing, the merits of Newdow's case are nonexistent as Chief Justice Rhenquist, O'Connor, and Thomas argues in their minority opinion. Recitation of the Pledge of allegiance in public schools is fully consistent with and appropriate within the context of the establishment clause of the first amendment to the United States Constitution. The words of the pledge simply convey the conviction held by the Founders of this Nation that our freedoms come from God. Congress inserted the phrase ''One Nation Under God'' in the Pledge of Allegiance for the express purpose of reaffirming America's unique understanding of this truth, and to distinguish America from atheistic nations who recognize no higher authority than the State. The Ninth Circuit's decision was problematic on several fronts.

Let me point out a few specifics. First, the court ignored the distinction that the Supreme Court historically has drawn between religious exercises in public schools and patriotic exercises with religious references. The Court repeatedly has said that the latter are consistent with the establishment clause. The voluntary recitation of the Pledge of allegiance is not a coerced religious act, and the Ninth Circuit's conclusion to the contrary is insupportable.

Second, the Ninth Circuit ignored the numerous pronouncements by past and present members of the Court that the phrase ''under God'' in the Pledge of Allegiance poses no Establishment Clause problems. It is one thing to identify isolated dicta with no precedential weight; it is something quite different to ignore, as the Ninth Circuit did, consistent and numerous statements from the Court's opinions all pointing to a single conclusion. The Ninth Circuit's refusal to heed the Court's previous statements about the pledge is simply inexcusable and is a glaring and continuing example of judicial activism run amok.

A decision to affirm the Ninth Circuit could have had ramifications extending far beyond the recitation of the Pledge of Allegiance in public schools. There is no principled means of distinguishing between recitation of the pledge, and recitation of passages from other historical documents reflecting the same truth. The Declaration of Independence and the Gettysburg Address that every student in this Nation is familiar with contain the same recognition that the Nation was founded upon a belief in God.

Should we, in a recitation of those seminal speeches, similarly delete any references to God? In fact, had the Ninth Circuit's decision been allowed to stand, it could have cast doubt about whether a public school teacher could require students to memorize portions of either one.

Additionally, much in the world of choral music would become constitutionally suspect, if it is performed by public school students. If the optional recitation of the Pledge of Allegiance violates the establishment clause, what would be the basis by which music teachers can have students perform any classical choral pieces with a religious message? The phrase ''under God'' in the Pledge of Allegiance is descriptive only. In contrast, much in classical choral music is explicitly religious. They would, under the Ninth Circuit's decision have a greater chance of being rejected.

In ruling that Michael Newdow could not sue to ban the Pledge of Allegiance from his daughter's school and others because he did not have legal authority to speak for her, the Court avoided the larger question of whether or not recitation of the pledge in a public school is an unconstitutional violation of the First Amendment proscription against the establishment of religion.

However, restrictions on religious freedom in the guise of preventing the establishment of religion have been eroding our freedoms and adversely affecting our culture. This began in 1962 in the Engel v. Vitale case, when 39 million students were forbidden to do what they and students had been doing since the founding of our Nation, and only a year later in the School District of Abington Township v. Schempp, the Court held that Bible readings in public schools also violated the first amendment's establishment clause. Then 1992, Lee v. Weisman removed prayer from graduation exercises, and the 2000 ruling in Santa Fe Independent School District v. Doe, prohibited student-initiated, student-led prayer at high school football games.

No legislative body affirmatively adopted any of these restrictions. In fact, the people's representatives—at both the Federal and State level—did precisely the opposite. For example, when Congress added the phase ''under God'' in 1954 to the Pledge of Allegiance, it did so with the explicit intention of fostering patriotism and piety. It was done to reflect the values of the American people.

Those values, Mr. President, have not changed. And the Court's ruling yesterday simply confirms what the American people have always known: acknowledging God in the public square is patriotic, wise, and good. It is not in conflict with our founding principles, or with our Constitution.

COMBAT CASUALTY CARE

Mr. INOUYE. Mr. President, I rise today to recognize the courageous men and women of military medicine, whose efforts to preserve life on the battlefield must not go unnoticed. Since World War II, I have followed the advances in personal protection and combat casualty care which have changed the fate of thousands of our military men and women.

The improvements in battlefield protection have given our military the lowest levels of combat deaths in history. While there is still regrettable loss of life in Iraq and Afghanistan, the fact that we are savings hundreds of lives which could not have been saved in past operations is proof that these advances are paying off.

Historically, 20 percent of all war casualties resulted in death. Today, that rate has been cut in half. Additionally, the rate of total battlefield casualties has also declined by half.

Many advances have led to these decreases. Improved body armor, the placement of forward surgical teams, improved medical training and evacuations, in theatre assessments of unforeseen medical complications, and superior medical technology are just a few of the changes I want to address.

As we read about casualties in the press, one might not realize that much has changed. We read about injury or death by mortar or improvised explosive device. And, as in the past, when soldiers are injured, the first person they call out for is not their mother, not their sweetheart, or even God, but for a medic. But circumstances are different when that medic arrives today. Training of our medics has improved drastically. Today every medic is certified as an emergency medical technician. They are provided with improved medical kits with state-of-the-art medical equipment. The military unit on the ground has these additional capabilities and life saving techniques to improve combat care from the moment of injury.

A second major development in treating battlefield injuries is the placement of forward surgical teams closer to the front lines. These teams target the 15–20 percent of wounded who, without care within the first hour after wounding, would die before seeing the inside of a combat support hospital. Uncontrollable hemorrhage has been a major cause of death in previous wars. Today, the forward surgical teams are well equipped to identify and stop bleeding using a hand held ultrasound machine to identify internal bleeding. Advances in hemorrhage control dressings have also had a substantial impact on saving lives.

Circumstances were definitely a little different when I served during

World War II. After I was injured, it took 9 hours to get to a field hospital where they performed military trauma surgery and over 3 months before I made it back to the United States. I spent 11 months in a hospital that was essentially a converted hotel in Atlantic City waiting for my final surgery and another 9 months in a rehabilitation facility in Battle Creek, MI. All told, it was almost 2 years from the time I was injured until I was able to return home to Hawaii.

Today, military personnel injured on the battlefield can be transported from theatre to a military hospital in Europe in a matter of hours. Depending on the extent of the wounds, they can be flown back to the United States within days. The rapid, sophisticated treatment on the battlefield and expedited transfer to safety are two of the most striking differences between military medicine today and World War II.

The story of Private Jessica Lynch is an excellent example. Following her rescue from the Iraqi hospital, Army medics, Air Force aeromedical evacuation troops and Special Operations forces transported her thousands of miles, used three different aircraft, and provided care during her entire journey, until she reached the safety of an Army hospital in Landstuhl, Germany. This was all accomplished in fewer than 15 hours. This same approach has saved the lives of many other courageous, young heroes.

What remains a mystery is how to treat the unexpected. Many deaths are the result of disease or non-battle injuries. In March 2004, there were 595 evacuations from Iraq for disease or other non-battlefield injuries. The Army Medical Department has deployed special teams with expertise in areas such as leishmaniasis, pneumonia, mental health and environmental surveillance to respond to these types of injuries. Having their critical assessments and recommendations while our troops are still in theatre will hopefully enable the command to decrease these illnesses.

The good news is that we have already improved our rates on this front. In the Civil War, twice as many people died of disease than of battle wounds. In World War I, about 56,000 U.S. soldiers died of disease, 14,000 during World War II, but only 930 during the Vietnam War. And we continue to make progress.

Press reports have highlighted the suicide rates of our troops serving overseas, but little acknowledgement has surfaced on how the military is addressing this concern. In July 2003, the Army sent a team of mental health experts to study the issues facing our troops in Iraq. This team was assembled to assess the increase in suicides in Operation Iraqi Freedom, evaluate the patient flow of mental health patients from theater, and analyze the stress-related issues Soldiers experience in combat.

This was the first time a mental health assessment was ever conducted with soldiers in combat. I cannot stress the importance of the collection and analysis of this data and its potential to help the military address these issues at the earliest stages.

We have also learned a great deal about providing better protection to our forces. We are now experiencing less than half of the theatre evacuations for chest and abdomen wounds than was seen during World War II, Korea, and Vietnam because of body armor.

The 1991 Gulf War was the first major conflict in which all U.S. troops were provided body armor. At that time, the vests were made of Kevlar. They were capable of stopping shell and grenade fragments, but were a heavy 25 pounds to carry. The lighter interceptor body armor now used in Afghanistan and Iraq weighs only sixteen pounds and stops grenade fragments, 9mm slugs, and some rifle ammunition. The efforts placed in these advancements have paid off and should continue with renewed commitment.

But while these advances have drastically improved our casualty rates, injuries to the limbs are increasing. Historically, 3 percent of those wounded in action required some amputation. Today that rate has jumped to 6 percent in Iraq. This requires our attention. We must focus on technology to reverse this trend.

These are just a few of the advances in medical technology and treatment that are responsible for saving the lives of our military.

As we think about today's improvements, we should remember the men and women that served before this conflict. Nearly half a million men were permanently disabled by wounds during the Civil War. Their sacrifices led others to develop improvements in orthopedic surgery and the design of prosthetic limbs. It is important that we recognize these sacrifices and contributions and continue our commitment to further advances.

It is said that my generation was the greatest generation. But I have spent a great deal of time visiting our military personnel and must say that this generation is surpassing us by far. These men and women in uniform display the courage, strength, and devotion of our armed forces.

I thank the Chair for allowing me to recognize the men and women of our military and to pay particular attention to lesser known positive data coming from the Global War on Terrorism.

CONFIRMATION OF PAUL STEVEN DIAMOND AND LAWRENCE F. STENGEL AS UNITED STATES DISTRICT JUDGES FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Mr. SANTORUM. Mr. President, I am pleased to submit this statement related to the Senate's unanimous confirmation of the nominations yesterday of Paul Steven Diamond and Lawrence F. Stengel as United States District Judges for the Eastern District of Pennsylvania after only a brief opportunity to speak on their behalf. First, I want to thank the President for their nominations and congratulate them and their families and to thank them for their willingness to serve Pennsylvania and our country.

Paul Diamond attended Hunter College-City University of New York and Columbia University where he graduated Magna Cum Laude in 1974. He received his J.D. from the University of Pennsylvania Law School in 1977. He served as an Assistant District Attorney in the Philadelphia District Attorney's Office from 1977–1980. Paul Diamond then served as a law clerk on the Pennsylvania Supreme Court to former Justice Bruce W. Kauffman, who now serves as a Federal judge on the United States District Court for the Eastern District of Pennsylvania. He returned to the Philadelphia District Attorney's Office until 1983. From 1983 until 1991 he was an associate and then a partner at Dilworth, Paxson, Kalish & Kauffmann in Philadelphia. Paul Diamond was an Adjunct Professor at Temple University School of Law from 1990–1992. From 1992 until the present he has been a partner at Obermayer Rebmann Maxmann & Hippel in Philadelphia.

Paul Diamond has written a book, Federal Grand Jury Practice and Procedure, and several articles on issues related to grand juries. He has extensive experience in general civil and criminal law practice areas and will be an excellent addition to the Federal bench.

I also want to extend my congratulations to Judge Lawrence F. Stengel who has served as a Common Pleas Judge in Lancaster County since 1990. Judge Stengel received a B.A. from St. Joseph's College and his J.D. from the University of Pittsburgh School of Law. His service on the Court was preceded by 10 years of legal practice, where he focused primarily on civil litigation matters as an associate at Dickie, McCamey & Chilcote, PC, and in private practice as a sole practitioner. He has also served as an adjunct professor at Franklin & Marshall College and Millersville University.

He has also served his community prior to legal practice as an English and Social Studies teacher at Lancaster Catholic High School. Judge Stengel was also a board member of Leadership Lancaster which assists young leaders with getting connected with community organizations. He has also served as a Guardian Ad-litem for abused children. As President of the Lancaster Bar Association, Judge Stengel formed a diversity task force to investigate ways to increase the number of minority attorneys practicing in Lancaster County and appointed a committee for the creation of the Lancaster Bar Association Foundation—a foundation whose primary purpose is to raise funds for enhancing the

delivery of services to underprivileged clients. I am pleased that he will be serving on the Federal bench. I want to thank my colleagues for their support for these nominations and again congratulate them and their families.

SADIE BROWER NEAKOK

Ms. MURKOWSKI. Mr. President, in November of 2003, I was honored to join with the Senator from Maine, Ms. COLLINS, in speaking on the Senate floor about the need for a national museum honoring the contributions of women in American history.

Senator COLLINS and I took turns addressing the accomplishments of pioneering women from our respective States, who were breaking through glass ceilings long before society acknowledged that they even existed.

One of the women I discussed was Sadie Brower Neakok, an Inupiaq Eskimo woman, from Barrow on Alaska's North Slope. Sadie has the distinction of being the first woman to serve as a magistrate in the State of Alaska. Four years before the United States passed its landmark civil rights act, an Eskimo woman was sitting on the bench in the State of Alaska.

But her life was remarkable in so many other respects. For one thing, she was appointed in 1960, a year after Alaska was admitted to statehood and long before women, not to mention Alaska Native women, came to realize that a career in the law was even an option. She continued in that role for nearly 2 decades.

Second, she was not trained as a lawyer. She was trained as an educator at the University of Alaska Fairbanks.

Yet when Sadie took the bench everyone knew she meant business. You should know that in the early days, the bench was Sadie's kitchen table.

She was tough on offenders, but equally tough on Government officials when asked to enforce unjust laws and regulations.

Ignoring the neutrality and detachment our society expects from its judicial officers, Sadie took a great risk when in May, 1961 she challenged an arbitrary game regulation which permitted duck hunting only after the ducks had already flown south.

After one subsistence hunter was arrested for violating the law, she quietly organized the rest of the community to violate the same law. Nearly 150 people came forth bearing ducks and demanded to be arrested.

The game warden could not keep up with the violators. There was not sufficient space in the jail to house them all. Sadie refused to charge them. In response to the community emergency, the regulation was changed.

Reflecting on this well known episode of civil disobedience, the Alaska Commission on the Status of Women in 1983 noted, ''It was, perhaps, judicial activism at an awkward peak, but it brought necessary change for the people of Barrow.''

Finally, Sadie was already an accomplished teacher, a public health worker and a social worker before taking the bench. She was working on her fourth career before many women embarked on their first job outside the home.

This is not to say that Sadie ignored the home. She was the mother of 13 children and cared for numerous foster children. In fact, she is regarded as the mother of all Barrow, which today has a population of about 4,500 people. She was a renowned seamstress, capable of making virtually anything from cloth or fur. Her life makes the aspiration shared by many women of ''having it all'' seem like a cliché.

I have the sad duty of informing the Senate that Sadie Brower Neakok passed away last Sunday at the age of 88. When asked once what the best part of her work was, Sadie replied, ''gaining the respect of my people.'' Today in Barrow, AK, which remains an Eskimo community where people still speak their Native language, the community will turn out to demonstrate the depth of that respect.

If there were a National Women's History Museum, young women everywhere would know Sadie's name and be able to take inspiration from her story. Until then it will take a bit more effort for people to learn more about this remarkable woman.

Fortunately, Sadie's story is not lost to history. It is preserved for eternity in recorded oral histories and in the book ''Sadie Brower Neakok—An Inupiaq Woman'' by Margaret Blackman.

It was a privilege to honor the life of Sadie Brower Neakok on the Senate floor last November. Today we extend our sympathy to Sadie's family and to all of the Inupiaq people of the North Slope on the loss of a respected Elder and a great leader.

HALT THE ASSAULT BUS TOUR

Mr. LEVIN. Mr. President, this week, the Million Mom March entered the tenth week of its ''Halt the Assault'' bus tour. The bus tour is traveling across America in a pink RV and making stops in nearly every major metropolitan area in the country. Their message is simple. They are asking Congress and President Bush to act now to reauthorize the assault weapons ban. They are in Illinois this week and they will be in my home State of Michigan at the beginning of August. I hope folks in each State will join them to help convey their important message.

In addition to banning 19 specific weapons, the ban makes it illegal to ''manufacture, transfer, or possess a semiautomatic'' firearm that can accept a detachable magazine and has more than one of several specific military features, such as folding/telescoping stocks, protruding pistol grips, bayonet mounts, threaded muzzles or flash suppressors, barrel shrouds, or grenade launchers. These weapons are dangerous and they should not be on America's streets.

The ban was designed to reduce the criminal use of military-style semiautomatic firearms, and it has done just that. According to statistics reported by the Brady Campaign to Prevent Gun Violence, from 1990 to 1994, assault weapons named in the ban constituted 4.82 percent of guns traced in criminal investigations. However, since the ban's enactment, these assault weapons have made up only 1.61 percent of the crime-related guns traced.

According to the Brady Campaign, throughout the 1980s, law enforcement officials reported that assault weapons were the ''weapons of choice'' for drug traffickers, gangs, terrorists, and paramilitary extremist groups. In response, our Nation's first responders asked Congress and President Bush to limit access to such weapons so that our streets and communities might be safer.

In order to keep these deadly, military-style weapons out of our communities, America's moms are joining gun safety groups and the law enforcement community in urging us to extend this critical gun safety law that is about to expire. Without action, firearms like UZIs, AK–47s, and other semiautomatic assault weapons could begin to find their way back onto our streets again.

Unfortunately, despite Senate passage of a bipartisan amendment that would have reauthorized the ban, it appears that this important gun safety law will be allowed to expire on September 13, 2004. The House Republican leadership opposes reauthorizing the law and President Bush, though he has said he supports it, has done little to help keep the law alive. I hope all of my colleagues will join me in thanking America's moms for their efforts in the battle to reauthorize the assault weapon ban.

NOMINATION OF JOHN C. DANFORTH

Mr. HAGEL. Mr. President, I offer my strong support for John C. Danforth's nomination to be Representative of the United States to the United Nations.

Jack Danforth's career in public service dates back to 1969, when he became Missouri's Attorney General. He served in that position until 1976. He went on to serve three distinguished terms in the United States Senate, where he was chairman of the Senate Commerce Committee.

Since retiring from the Senate in 1995, Presidents of both political parties have called upon Jack to tackle complex problems. In 1999, then-Attorney General Janet Reno appointed him as a special counsel to investigate the 1993 deaths of 80 Branch Davidians in Waco, Texas. In 2001, President Bush appointed him as a special envoy to Sudan to help achieve peace between long-warring factions in that country. His service in Sudan reflects his varied talents and great capacity for diplomatic accomplishments.

Jack Danforth has earned the respect of both national and international leaders. His strong character, broad experience and varied accomplishments make him an excellent choice to once again serve America, this time in the United Nations at one of the most challenging times in history.

I endorse John C. Danforth's nomination and encourage the Foreign Relations Committee and Senate to offer their full support to this nomination.

UGANDA

Ms. LANDRIEU. Mr. President, I wish to take this opportunity to report back to my colleagues on some observations during my recent visit to the nation of Uganda. The Congressional Coalition on Adoption is a bipartisan, bicameral caucus that enjoys the support of nearly 200 members of Congress. I am fortunate to cochair this organization with my friend and colleague, the Senior Senator from Idaho. Every year, we have been taking a delegation of members and staff to a nation which plays, or could play, a leading role in assuring every child a loving family. In recent years, we have lead delegations to Romania, Russia, China, and Guatemala. However, this month, we traveled to a spot that is truly special in the world—Uganda.

I am sad to say that if Americans know anything about Uganda, they know its tragic history. Since independence from Britain, Uganda has moved from tragedy to tragedy. Famously called the ''Pearl of Africa'' by Sir Winston Churchill, decades of misrule and grisly dictatorship left Uganda destitute and denied her proper role in the family of nations.

Yet, the spirit of the people of Uganda seems indomitable. Despite Amin, despite Obote, despite HIV/AIDS, despite brutal terrorists in the north, Ugandans continue with a joy of life that is almost impossible to accept in our own terms. The people there have an amazing capacity to look past their personal tragedies and continue to strive for a better life for their children.

Perhaps no man better captures the spirit of the people of Uganda than their current President, Yoweri Museveni. When Idi Amin staged his coup in 1971, now-President Museveni went into exile and began a history of resistance to dictatorship and misrule that has earned him comparisons with our own George Washington. Since his National Resistance Movement took power in 1986, Uganda has enjoyed the first sustained period of growth and stability that it has known since independence. As is often mentioned, President Museveni also exerted personal and farsighted leadership in the struggle against AIDS. The difference between this kind of personal leadership and its absence can be found by comparing the AIDS infection rates in Uganda with those of the rest of sub-Saharan Africa.

Thus, Uganda is a country with capable and proven leadership, with an industrious people who are eager for more contact with the United States, and with an amazing natural beauty that is unparalleled in my own experience. However, Uganda faces two enormous challenges, and that is what drew the Congressional Coalition on Adoption to the country. Sadly, both of these challenges have contributed to the creation of orphans. They are the epidemic of HIV/AIDS and the ongoing terrorism by the Lord's Resistance Army in northern Uganda.

Uganda has a population of 25 million people, and estimates suggest that nearly 10 percent of Uganda's population are orphaned. The good news is that Uganda has tackled one of the great orphan-generating disasters by acknowledging AIDS as a threat that can shake a country to its core. AIDS infection rates in some sections of Uganda were greater than 50 percent. From that devastating past, and with the good work of President Museveni and the First Lady, Janet Museveni, they have brought infection rates in Uganda to less than 6 percent.

However, we must continue our support for the President's ''ABC'' program that endorses abstinence, being faithful, and condoms in that priority. The three pronged approach has been very successful, and we must ensure that ideological differences do not undermine our support for a program with such an amazing success rate.

Additionally, we observed some very important clinical work with the drug Nevirapine. It is one of those small miracles that should do wonders in theory, but as a practical matter, the results are somewhat more troubling. Nevirapine has been shown to reduce mother-to-child HIV transmission rates by 50 percent. German pharmaceutical companies are providing the drug for free in Uganda. Nevertheless, because the healthcare infrastructure is so fragile and, in much of Uganda, nonexistent, Nevirapine has been subject to something called the ''cascade effect.'' Effectively, this means that since Nevirapine treatment requires a number of steps, at each stage we lose participation of mothers. So, when 6,000 women enter a clinic's door seeking treatment, we end up saving about four babies at a cost of $5,000 for each child. It is not that those children are not worth saving, we should do everything we can to save every child. However, when we tackle an enormous problem with finite resources, we must devote our efforts to the most effective treatments available.

As the administration unrolls its funding strategy for the global effort against AIDS, I think we must examine this question of mother-to-child transmission carefully. In addition to the cascade effect, we must be careful not to ''create'' orphans with our healthcare funding choices. If all of our efforts go into saving infants, and we do less to help the mothers, we have only added to Uganda's difficulties with a large orphan population.

But the real pressure creating new orphans in Uganda also deserves American attention. The Lord's Resistance Army, LRA, has been operating in Uganda since 1989. Suffice to say that its origins can be found in the delusional preachings of a self-proclaimed priestess, and since that time, it has lost whatever purpose it might have claimed. Fifteen years later, the LRA is lead by Joseph Koney, and his acts of cruelty can only rank with those of Hitler and Stalin. I heard personal testimony from an 11-year-old girl who was forced to kill her own mother in front of her siblings.

This rag-tag group of brigands, thieves, and terrorists prey on the weakness of children. They swell their own meager ranks of 2,000 men by abducting children out of their homes. Young children are made to carry equipment, frequently starving to death during their treks of hundreds of miles to the LRA bases in southern Sudan. Older males are forced to fight or be killed. Girls are brutally raped and used as sex slaves for years.

Child soldiers are regrettably not unique to Uganda. However, Koney's pathological desire to have children murder their own families and their fellow villagers leaves scars that are harder to heal than in other parts of the world.

Despite this reality, U.S. military assistance to Uganda is a pittance. It is certainly true that the Ugandan army has a checkered past. It is also true that President Museveni has intervened in other conflicts, such as Rwanda. Yet, whatever harm might conceivably come from greater military assistance the United States would provide Uganda, it is overwhelmed by the horror of the status quo. If there is a moral obligation to use military force to defeat terrorists anywhere on Earth, I cannot conceive of a better place for the use of force than against the LRA.

East Africa is an unstable and difficult neighborhood. Nearby Somalia is a failed state. Sudan has actively harbored terrorists, including Osama bin Laden. The Congo is an ongoing battleground. Rwanda experienced the worst genocide since Nazi Germany. This is a place that needs some attention and would benefit from a more robust American role. I am certain that we will need a real partner in this region—a partner in our fight against terrorism, an economic partner that demonstrates the success of the African Growth and Opportunity Act, and a regional model for the combat of AIDS. I believe that Uganda could be such a partner, and this Senator will pursue those steps available to me that would cement this relationship.

Finally, let me say a word about intercountry adoption. President Museveni graciously received our delegation, and we had the opportunity to explain our position. Namely, the coalition feels that children flourish with

loving families, but suffer in institutions. Of course, Uganda's traditional culture would normally absorb orphaned children in precisely the way we think is most appropriate—first with their family, secondarily within their community. However, we feel that where these social systems have been overwhelmed, as they have been in Uganda, a country should consider the option of international adoption. We believe that a nation can have no better ambassador to the United States than a child who has been adopted into a U.S. family and now has an active interest in their home country. We have seen it in China, Korea, and Russia. The process of intercountry adoption simply connects Americans to another country in a way they otherwise never would be.

So with these thoughts in mind, President Museveni has agreed to review our request that Uganda ratify the Hague Convention on Intercountry Adoption. International adoption is not going to be a solution to the very important tasks ahead of Uganda. However, in the lives of the children who find parents this way, intercountry adoption will be a true blessing.

I am also very pleased to announce that President Museveni and his wife Janet have kindly accepted my invitation to join us for a reception in their honor at my home. This will be an excellent opportunity for the Washington community to welcome this distinguished leader and build upon the foundations of partnership that have already been laid. I look forward to seeing many of my colleagues there.

NATIONAL FLOOD INSURANCE ACT OF 1968

Ms. MIKULSKI. Mr. President, I rise to support S. 2238, the Flood Insurance Reform Act of 2004. I want to thank Senator SARBANES, my colleague from Maryland and a member of the Banking Committee that pushed this legislation through. Senator SARBANES and I worked together as ''Team Maryland'' to ensure that this legislation addressed many of the lessons learned in the aftermath of Hurricane Isabel.

In September 2003, my State of Maryland was devastated by Hurricane Isabel. This was the worst natural disaster in Maryland history. The people who live on the Chesapeake Bay and the many rivers leading into the Bay lost their homes, their possessions, and many lost their livelihoods.

The flooded communities have names like Bowleys Quarters and Millers Island, Bayside and North Beach, Kent Islands and Hoopers Island. The people who live in these communities are hard-working people. Many are retirees who scrimped and saved to buy these homes. Some are people I went to school with. Many of these communities are still struggling with the legacy of Isabel. Some Marylanders are still living in trailers which are really glorified campers.

Right after Hurricane Isabel swept through Maryland, Senator SARBANES and I went with Secretary Tom Ridge and Governor Ehrlich to see the damage, to talk to people, and to find out how we could work together with Marylanders to put their lives back together. When disaster strikes, we are Team Maryland and Team America, Federal and State officials, Democrats and Republicans. We saw houses moved off their foundations in North Beach. We walked the streets of Bowleys Quarters where children's toys and personal items were pushed into yards by three feet of flood waters. We saw mud more than a foot deep three blocks away from the water. We talked to a business owner on Kent Island who lost her restaurant only 6 months after she bought it.

I was incredibly moved by what I saw, not only the devastation, but the way these communities were pulling together. I heard about daring rescues from our intrepid first responders. Churches opened their doors to provide food and shelter. Neighbor was helping neighbor. I promised these communities that their Federal Government would help.

Unfortunately, the National Flood Insurance Program wasn't there the way it should have been. Today, nearly 9 months after Isabel hit, my constituents are still struggling to get the money that is owed to them. They are frustrated, confused, and frankly, many are just plain fed up. They feel like the insurance they paid for wasn't there when they needed it the most.

From Calvert County to Baltimore County to Anne Arundel County to Maryland's Eastern Shore, people told me they didn't understand what their flood insurance covered. Though their homes were damaged, they thought between homeowners insurance and flood insurance they would be covered. Nothing was explained to them when they bought these policies. They didn't know, for example, that the contents of their home wasn't covered without a separate policy. People thought if they had $200,000 worth of coverage on a home they bought for $50,000 that flood insurance would pay to replace the home. But when they put in their claims they found out they would only get a portion of what it costs to make repairs or rebuild.

Another serious problem was the way insurance agents handled people's individual claims. When people asked their insurance agents to explain things to them, they couldn't get a straight answer. That's because some of the insurance agents don't really know what these policies cover or how they really work. In Southern Maryland, some homeowners were able to get emergency advances on their claims. Others were told there was no way to get advances on their claims. Different agents gave different answers. In some cases, the same agent would give a different answer depending on the day. That is unacceptable.

When I heard these stories about claims being denied or shortchanged, I asked my constituents if they could appeal. They told me they didn't know. When they filed their claims, no one told them how to appeal, or even if an appeal was possible. My office became a clearinghouse for appeals. We asked the National Flood Insurance Program for instructions on filing an appeal; there wasn't one. So, I organized community meetings and appeals hearings. I brought FEMA and representatives from the National Flood Insurance Program to Maryland communities to explain to people what they needed to do to get a fair hearing.

Once Marylanders figured out their policies and filed their paperwork, the payments they were getting were not adequate to repair the damage. The flood insurance adjusters weren't using real world estimates for what it took to repair damages. In Bowley's Quarters, the adjuster gave people real lowball estimates for their repairs. So the community association asked a local contractor to come in for a second opinion. When his estimate was significantly higher, the community leaders went back to the adjuster. They told the adjuster what was needed to do the job. But people shouldn't have to go through all of this to get a fair appraisal and a fair reimbursement from insurance they paid for.

These experiences led to four recommendations that I submitted when I testified before the Banking Committee earlier this year. Senator SARBANES was instrumental in developing these recommendations and worked with the committee to make them part of this legislation. Helpful to this process were two reports that outlined the myriad of problems that surfaced after Hurricane Isabel struck Maryland. The first report was prepared by Maryland's former Insurance Commissioner, Steve Larsen, at the request of Baltimore County Executive, Jim Smith. The second report was prepared by Maryland's current Insurance Commissioner, Alfred Redmer. Many of the findings in those reports were similar to what I heard directly from constituents and were helpful in developing the following recommendations:

One, the National Flood Insurance Program must provide a clear and understandable outline of policies so policyholders understand what is covered and what is not. Two, the agents who sell flood insurance must understand what they are selling and how claims are processed so consumers don't get the runaround instead of answers. Three, there must be a clear way for policyholders to appeal their claims awards or appraisals of loss. Four, consumers need to know that the insurance they purchase will pay the real world cost of repairing damages or replacing their losses.

I support this bill because it addressed four key reforms that I believe will improve the National Flood Insurance Program. First, the bill directs

FEMA/NFIP to develop supplemental forms to the flood insurance policy. These supplemental forms will explain in simple terms the exact coverages being purchased by a policyholder, any exclusions from coverage that apply to coverages purchased, and an explanation, including illustrations, of how lost items and damages will be valued under the policy at the time of loss. Second, the bill directs FEMA/NFIP, in cooperation with the insurance industry to establish minimum training and education requirements for all insurance agents who sell flood insurance policies, publish these requirements in the Federal Register, and inform insurance companies and agents of the requirements. Third, the bill directs FEMA/NFIP to establish a formal appeals process with respect to claims, proofs of loss, and loss estimates relating to flood policies. Fourth, the bill directs the Comptroller General of the United States to conduct a study of the adequacy of the scope of coverage provided under flood insurance policies, the adequacy of payments to flood victims under flood insurance policies, and the practices of FEMA/NFIP and insurance adjusters in estimating losses incurred during a flood.

As the one year anniversary of Hurricane Isabel approaches, I believe we need to take aggressive steps to address the inadequacies of a flood insurance program that clearly wasn't there for people in their greatest time of need. This bill goes a long way in making the flood insurance program fairer, more transparent, and reliable.

NOMINATION OF ANNE W. PATTERSON

Mr. HAGEL. Mr. President, I rise today to offer my strong support for Anne W. Patterson's nomination to be the U.S. Deputy Representative to the United Nations.

Anne has served the United States with distinction over the past 31 years, both at home and abroad. Anne began her career in 1973 as an economic officer in Ecuador, later rising to become U.S. Ambassador to Colombia and El Salvador. She has achieved a diverse set of accomplishments, which include mastering both Spanish and Arabic. Anne has served as Principal Deputy Assistant Secretary and Deputy Assistant Secretary of Inter-American Affairs and as office director for the Andean countries. She is currently the Deputy Inspector General of the Department of State.

Anne's commitment to excellence has been recognized by her colleagues and superiors at the State Department. She twice received both the State Department's Superior Honor Award and its Meritorious Honor Award. The Government of Colombia awarded her with the Order of the Congress and the Order of Boyaca. She was also recognized by the Government of El Salvador with the Order of Jose Matias Delgado.

Anne's wide array of experiences and commitment to service make her an excellent choice to serve America at the United Nations. I endorse Anne W. Patterson's nomination and encourage the Foreign Relations Committee and Senate to offer their full support to this nomination.

TRIBUTE TO THURSTON ESCO WOMBLE

Mr. LOTT. Mr. President, when we dedicated the National World War II Memorial and commemorated the 60th anniversary of D–Day, much was made of the fact that this Nation loses an average of over 1,000 World War II veterans every day. Just last week, we honored the passing of one of the greatest members of that great generation, President Ronald Wilson Reagan.

I want to take this opportunity to recognize the passing of another great member of that great generation, Thurston Esco Womble. When President Reagan spoke at the 40th anniversary of D–Day, he memorably referred to the assembled veterans as ''the boys . . ., the heroes who helped end a war.'' Thurston Womble was one of those boys, one of this Nation's unsung World War II veterans who helped ensure the United States of America maintained its freedom and way of life during a very difficult time in our Nation's history.

Mr. Womble's service began prior to Pearl Harbor, when he enlisted in the Navy in March, 1941. By that October, he had gone through the Metalworkers School in Norfolk, VA. Womble was soon assigned to duty on the U.S.S. *Cincinnati* (CL–6), engaged in patrol and convoy duty in the western Atlantic and Caribbean, blockading occupied French men-of- war, and searching for German blockade runners.

In November, 1942, *Cincinnati* assisted in the interception and destruction of the German blockade runner S.S. *Annalise Essberger*. Although the German crew scuttled their ship, a boarding party reached it in time to take all 63 crew members prisoner before the blockade runner sank. Early in 1944, *Cincinnati* served as escort flagship for three convoys transporting men and equipment from New York to Belfast in preparation for the invasion of Normandy. She subsequently participated in the assault on Southern France and patrolled South Atlantic shipping lanes until the war in Europe ended.

But Thurston Womble's naval service did not end there. After the war ended, he went back to school at the Philadelphia Navy Yard and graduated as a boilerman. He was then assigned to duty aboard U.S.S. *Lake Champlain* (CV–39), one of our newly built aircraft carriers assigned to so- called ''Magic Carpet'' duty, bringing veterans of the European Theater back home. Womble was aboard in November, 1945, when *Lake Champlain* crossed the Atlantic in 4 days, 8 hours, 51 minutes, a record which held until surpassed by the U.S.S. *United States* in 1952. He was in charge of lighting off the boilers in *Lake Champlain*'s #1 Fireroom for that historic transit.

On February 18, 1950, in Quincy, MA, Womble married Olive Bates Merrill. They became the parents of Noreen, who is a high school teacher in Inverness, FL, and Eric, who served as my national security adviser and military legislative assistant for 7 years.

In the years after World War II, through the Korean Conflict, and up until 1960, Womble served on a veritable parade of U.S. Naval vessels: U.S.S. *Beverly W. Reid* (APD–119), U.S.S. *Houston* (CL–81), U.S.S. *Fargo* (CL–106), U.S.S. *Bataan* (CVL–29), U.S.S. *San Marcos* (LSD–25), U.S.S. *Fort Mandan* (LSD–21), U.S.S. *Laning* (APD–55), and finally, U.S.S. *Saratoga* (CVA–60).

Womble rose in rank and responsibility to become a Boiler Technician Chief Petty Officer and Leading Chief of the Boilers Division aboard *Saratoga*. His commanding officers repeatedly cited, not only his mechanical abilities and technical skills, but his energy, enthusiasm, and his outstanding and inspirational leadership in performing tasks ''not previously considered within the capacity of ship's force personnel.'' Truer words were never spoken than in 1960, when his commanding officer wrote, ''The Navy will realize a great loss when Womble retires this coming August.'' That was when Womble became a fleet reservist and started a second career.

Womble's Navy career probably wasn't what his parents, Huey Clayton and Thelma Esco expected when he was born in Autauga County, AL, on August 16, 1922. But the experience of being raised in rural Alabama in a close knit family taught Thurston the values that carried him through a long and honorable Naval career.

Following his active-duty service, he enrolled in Jones College in Jacksonville, FL, to study business management and worked 13 years in Mobile, AL, as the representative for the Royal Insurance Companies, specializing in employee protection and workplace safety. In 1980, he became Sales Manager and Quality Control Manager for G&V Industrial Contractors, also in Mobile, AL. Thurston then served as Director and Chief Boiler and Pressure Vessel Inspector for my home State of Mississippi. All in all, it seems clear to me that Womble carried his experience as the son of a carpenter, fisherman and farmer, as well as his devotion to his Navy shipmates, into a career of devoted and humble service to the people and communities in Mississippi and Alabama.

During an active and reserve career that spanned 30 years, Thurston was awarded the Navy Occupation Medal; European Clasp, American Defense Service Medal; American Area Campaign Medal; European-African-Middle Eastern Campaign Medal; World War II Victory Medal; Korean Service Medal;

National Defense Service Medal; and six Good Conduct Awards.

Thurston Womble's final days where spent with the family and friends he loved so much—and doing what he enjoyed most, golfing and fishing. He is survived by his wife of 54 years, Olive, their children, Noreen and Eric, Eric's wife Wendy and grandchildren, Melissa and Matthew. I extend my sincere condolences to the entire Womble family on their loss. I also want to thank Thurston for his dedicated service to our country and for setting an example that the rest of us can only hope to emulate; our great Nation owes him a debt of gratitude.

LIEUTENANT COLONEL MICHAEL J. DELANEY

Mr. WARNER. Mr. President, I rise today to honor Lieutenant Colonel Michael J. Delaney of our Army's Office of Legislative Liaison. Lieutenant Colonel Delaney has distinguished himself as an outstanding American soldier from the great State of Virginia and will soon complete over 23 years of selfless service to the Nation in the United States Army. His dedication to Soldiers, commitment to excellence, and performance of duty has been extraordinary throughout his career and, especially over the past 4 years, has cemented the positive relationship between Congress and the U.S. Army. He will retire on August 1, 2004.

Over his 23 years of selfless service, Lieutenant Colonel Delaney served in a succession of command and staff positions worldwide. As a junior officer, he stood at the forefront of freedom during the Cold War in Germany. From the Cold War frontline, Lieutenant Colonel Delaney earned his wings as an aviator and qualified on a variety of rotary wing and fixed wing aircraft. During Desert Shield and Desert Storm, Lieutenant Colonel Delaney commanded an aviation unit based at Fort Belvoir. Despite the wide dispersion of his unit throughout the combat theater, they were able to successfully accomplish their mission due, in no small part, to his exceptional and inspirational leadership. Lieutenant Colonel Delaney has since served in a variety of positions of increasing responsibility.

For the past 4 years, Lieutenant Colonel Delaney has served as a congressional liaison for the U.S. Army. Perhaps this assignment was pre-ordained, as Lieutenant Colonel Delaney's wife, the former Susan Fanning, served as staff to Senator Paul Laxalt of Nevada. His mother-in-law, Shirley Fanning, also has a history with the Senate as she served on the staffs of Senators Everett Dirksen and Strom Thurmond for 25 years. Lieutenant Colonel Delaney's work as a legislative liaison and as the Chief of the Programs Division enabled the Army to provide this Congress the information we need to accomplish our constitutional duties. His efforts have been exceptional and noteworthy in working with Congress during a critical time as the Army undertook transformation, in the aftermath of the 9/11 terrorist attacks, and during our current efforts with the Global War on Terrorism. Throughout this critical time Lieutenant Colonel Delaney has fostered a personal relationship between Congress and the U.S. Army.

Lieutenant Colonel Delaney holds degrees from George Mason University, B.A., 1981, and the Naval War College, M.S., 1996. His military awards include the Legion of Merit, the Meritorious Service Medal, and the Master Aviator Badge.

Lieutenant Colonel Delaney represents the epitome of what the Army seeks in a congressional liaison and the country expects from our officers. His service to the Nation has been exceptional, and Lieutenant Colonel Delaney is more than deserving of this recognition.

ROBERT A. RIESMAN

Mr. CHAFEE. Mr. President, I rise today to honor the life of Robert A. Riesman, who, sadly, passed away on June 2 in Providence, RI.

Robert Riesman was a Renaissance man and a prominent Rhode Islander, who succeeded in and devoted himself passionately to all aspects of his life. He was a decorated soldier, a successful businessman, and a leader in Rhode Island politics. He was a philanthropist, a dedicated man of faith, and a devoted father and husband.

But my own words cannot fully convey the value of Bob Riesman's character and achievements. This can best be expressed by Mr. Riesman's close friend and my esteemed colleague, Senator JACK REED, whose eloquent eulogy of June 6 describes Mr. Riesman in the most human terms.

Therefore, Mr. President, I ask unanimous consent that Senator REED's eulogy be printed in the RECORD.

IN MEMORY OF ROBERT A. RIESMAN

Last Thursday, Richard Licht and I spoke. We quickly concluded that, outside our own families, Bob Riesman was the finest man that we had ever met. Then, we also quickly concluded that we tend to give our families a little extra credit.

Bob Riesman was my hero.

He lived his life heroically. He lived with honor and with a commitment to high ideals. He pursued wisdom. He cherished family and friends. He set an example of decency and integrity and modesty. He time and time again entered the arena to be part of the great issues that shaped his generation and shaped our lives. But, he never forgot that life is little things, too: acts of kindness, moments of humor, sharing life's joys and disappointments with family and friends.

He was an American hero.

He joined the Field Artillery at Camp Ethan Allen in Vermont many months before Pearl Harbor. He had just graduated from Harvard. Bob was always very proud of his Harvard diploma, but declared that he was educated at the Boston Latin School.

He served with the First Infantry, his beloved ''Big Red One''. He fought through North Africa and Sicily. His soldiers admired his fearlessness and his authenticity. For his courage under fire, he was awarded the Silver Star. For his wounds, he was awarded the Purple Heart. Because of these wounds, he had to leave the First Division and he became an intelligence officer with the First Army. The last days of the war found him as a staff officer in Paris.

We always spoke together about the Army. Every conversation in some way or another touched on our youthful and lifetime devotion to the Army. Bob seldom, if ever, talked about the difficult moments. He recalled the camaraderie. He spoke of his admiration and respect for Sergeant Vic Lister and the other American soldiers that he led. He spoke about the leaders that he admired and those he found lacking. We both reveled in those memories of soldiers and soldiering, he knowing far better than I the terrible cost of war.

Bob Riesman saw the horror of war but refused to surrender his spirit to its brutality. And having seen that horror and bearing the memory forever of those young soldiers who never returned, Bob's return was not simply an occasion for celebration. It was an opportunity and an obligation to engage in another struggle; the struggle of a committed citizen to build a just and decent society in America and to be a force for peace and justice around the world.

And, Bob never wavered from that commitment.

Bob Riesman was a man of great faith and great tolerance.

His parents taught him to cherish his Jewish faith and act on this faith to serve his neighbors and his community and his country. Bobs faith was more than just a theological exercise. It was for him a summons, not just to reflection, but also to action.

Bob Riesman was my friend.

To sit by him and to feel the comfort of a kindred spirit, to listen and learn, to trace and retrace the days of our lives, to share good wine and good conversation, to know the feeling of unqualified support and affection was a precious and enduring gift to me.

On one memorable evening, we rode together, just the two of us, back from West Point. We had been up for the day to visit the newly dedicated Jewish Chapel at West Point. Bob and I attended services with the Cadets and then had supper with them. It had been a splendid day for the both of us, but a special day for Bob, uniting both his faith and his Army. In the nighttime drive, we spoke of many things. At one point, we began to discuss William Butler Yeats. Bob, as he often did to my amazement, began to recite from memory passages not only from Yeats, but W. H. Auden's famous lines:

Earth receive a honored guest
William Yeats is laid to rest

Today, earth receives another honored guest.

Bob taught me so much and, along with my Father and Mother, set an example of what, on my best day, I might hope to be.

His approval meant the world to me. I recall those times when we spoke and he was particularly pleased by something he had read or heard about me. He would say ''my boy, you are a credit to the Regiment.''

In a life of extraordinary achievement, Bob's greatest achievement was his marriage to Marcia and their wonderful children and grandchildren. Marcia and Bob were best friends as well as husband and wife. To watch them was all you needed to know about respect and commitment and deep and abiding love.

Bobby and Jeanie are their parents' pride. Whenever I asked about either of them, Bob's eyes would light up and his voice would resonate with uncontained joy and pride. This reaction was only exceeded when we spoke about Abe and Clare.

At this moment, I know we all wish for one thing, to have a few minutes again with Bob, to be with him before the fire on Freeman Parkway or watching the sun set in Middletown, to feel the comfort of his presence, to know that in a life that can mean there was at least one who was noble. But, that cannot be.

And knowing this, our hearts would surely break save for one thing. Bob made us stronger and better by his life. He has given us the example and the ability to carry on. And, we will.

Dear friend, I shall miss you.

Dear friend, ''you have been a credit to the Regiment.''

ADDITIONAL STATEMENTS

HONORING THE ACCOMPLISHMENTS OF DANIELLE MILLER

● Mr. BUNNING. Mr. President, I pay tribute and congratulate Danielle Miller of Louisville, KY on being named a distinguished finalist for the Prudential Spirit of Community Awards. This award honors young people in middle level and high school grades for outstanding volunteer service to their communities.

Danielle Miller founded a service organization called the ''National Awareness Committee'' to provide clothing, books, and other needed items to members of the Lakhota Sioux Nation living on a reservation in South Dakota. Danielle became aware of the Lakhotas needs during a school presentation by the Native American Support Effort—NASD—in the eighth grade, and became a volunteer. Although she was too young to go on a mission to the reservation, she realized she could accomplish a great deal in her community.

Danielle Miller planned and organized five collection drives at local schools and in nearby communities, and gathered enough clothing, blankets, kitchenware, bicycles and books to fill a 52-foot truck. She recruited volunteers to help sort, pack, and load the donations, and personally accompanied the shipment to the Rosebud Reservation in southern South Dakota. Danielle plans to make a documentary film that will be used to make even more people aware of the Lakhota situation.

The citizens of Louisville are fortunate to have a young lady like Danielle Miller in their community. Her example of dedication, hard work and compassion should be an inspiration to all throughout the entire Commonwealth.

She has my most sincere appreciation for this work and I look forward to her continued service to Kentucky.●

MG EDWARD MECHENBIER

● Mr. DEWINE. Mr. President, today I wish to share with my colleagues a story about a wonderful American who I have had the privilege of personally knowing for many years. I am talking about MG Ed Mechenbier. I have had the honor of knowing him as a friend and as a true patriot of the American spirit and soul. On June 30, 2004, MG Ed Mechenbier will celebrate his retirement from the United States Air Force Reserve following a brilliant military career that began in 1964 when then Cadet Mechenbier entered the United States Air Force Academy.

My friend Ed Mechenbier is a very humble man, not known for patting himself on the back or openly touting his many accomplishments. But, he is a hero in many respects. He is a man who is driven by a sense of duty, a sense of honor, and a sense of country.

In June 1967, Ed Mechenbier found himself flying an F4C Phantom II fighter while assigned to the 390th Fighter Squadron, Da Nang Air Base, South Vietnam. On June 14, 1967, Ed was assigned a strike mission against the Vu Chu railroad near Kep, approximately 30 miles northeast of Hanoi. This flight was the 80th mission for then 1LT Ed Mechenbier. June 14, 1967, also marks the day that Ed became a Prisoner of War after his aircraft suffered a direct hit from a surface to air missile. Little did he know that when he began his 80th mission that he would not leave the Hoa Lo prison, which is also known as the ''Hanoi Hilton'' for the next five years, eight months and four days.

The stories that our former POWs describe remind us of the tremendous fighting spirit and sense of survival that distinguish and define the modern day American warrior. February 12, 1973, became a day of freedom for Ed and many other POWs who were released to return with honor to the hallowed soil of the United States. Upon return home, Captain Mechenbier was awarded the Silver Star with the Oak Leaf Cluster for his resistance to demands by the North Vietnamese for information, confessions, and propaganda material. In addition, Captain Mechenbier was awarded the Bronze Star with distinction for his efforts to conduct himself strictly in accordance with the Code of Conduct during his capture and imprisonment. The POW credo ''Return with Honor'' is exactly what Ed Mechenbier did. Throughout his imprisonment, he did not lose his fighting spirit. He did not lose his sense of hope. And, he did not fail to remain anything, but a shining example of a warrior whose duty assignment had been temporarily changed.

The irony of this story continues and on that day in February 1973, an Air Force C–141 Starlifter had been dispatched to the Gia Lam Airport in Hanoi, North Vietnam. To the casual observer, the tail number of that aircraft, 66–0177 is insignificant. Historically, however, that identification number is very important because it was the first U.S. aircraft to leave North Vietnam with former POWs as passengers. On board that aircraft, which was affectionately dubbed the ''Hanoi Taxi,'' was former POW Captain Mechenbier. Throughout the process of returning former POWs to the United States, the ''Hanoi Taxi'' was a vital resource as were many other aircraft that were needed to accomplish such an honorable mission. In the years following February 1973, the Hanoi Taxi's history and legacy had been temporarily forgotten while the aircraft carried out a long and proud period of service within the Air Force fleet. Today, over 30 years later, the Hanoi Taxi is still flying airlift missions for the 445th Airlift Wing at Wright-Patterson Air Force Base in Dayton, OH.

At the same time, the life of Ed Mechenbier has also moved forward. Following several assignments that include flying with the 4950th Test Wing and the 162nd Tactical Fighter Squadron, the young Air Force Academy cadet of 1964 is now leaving military service as a major general in the United States Air Force Reserve. Through the many promotions and the many assignments, Ed never forgot who he was and his keen sense of perspective tends to bring calmness in times of difficulty.

Several years ago, as a member of the 445th Airlift Wing, Ed reunited with the Hanoi Taxi in his capacity as a member of the United States Air Force Reserve. The historic aircraft and the former POW, who was once a passenger on the aircraft, became one of its pilots. Recently, Ed Mechenbier made his final flight as a command pilot having accumulated more than 3,500 hours flight time in several military aircraft. The final flight was more than just a trip around the traffic pattern—the final mission was one that would take him half way around the world to land at the Noi Bai airport in Hanoi. The mission was to return to American soil the remains of American service members who had been missing in action during the Vietnam era and recently recovered from central Vietnam by U.S. military officials. On this mission, the Hanoi Taxi once again returned to Vietnam and the former passenger, Ed Mechenbier was at the controls of the aircraft. Once again, the Hanoi Taxi returned to freedom the remains of fallen comrades from a war that has not been forgotten.

During a repatriation ceremony that was conducted prior to departure for return to the United States, Ed Mechenbier said this to those who gathered to honor the fallen comrades: ''For those of us who were fortunate enough to come home, I think we owe a little bit to all the families—to help them make the closure on that end.'' The last operational mission was carried out in the same manner that Ed Mechenbier has conducted himself since 1964—with honor, with pride, and with a tremendous sense of duty.

On June 30, 2004, MG Ed Mechenbier and several hundred of his friends will gather to celebrate his retirement. Even though retirement signifies an ending of sorts, his legacy of excellence, commitment, patriotism, and

dedication to ''completing the mission'' will remain long after his retirement. The legacy that he leaves behind will inspire generations well into the future.

I am proud of Ed Mechenbier. I am proud of his accomplishments, but perhaps more importantly, I appreciate his unwavering sense of duty, honor, and country for it is those values that define the warrior spirit. I thank him for the many sacrifices he has made for our great Nation, and I join with all Ohioans and the members of this Chamber in wishing MG Ed Mechenbier a happy and successful retirement. May God bless him and his family as they enter this new phase in their lives.●

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

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

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

MESSAGE FROM THE HOUSE

At 2:06 p.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, in which it requests the concurrence of the Senate:

H.R. 4513. An act to provide that in preparing an environmental assessment or environmental impact statement required under section 102 of the National Environmental Policy Act of 1969 with respect to any action authorizing a renewable energy project, no Federal agency is required to identify alternative project locations or actions other than the proposed action and the no action alternative, and for other purposes.

H.R. 4517. An act to provide incentives to increase refinery capacity in the United States.

At 6:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4503. An act to enhance energy conservation and research and development, to provide for security and diversity in the energy supply for the American people, and for other purposes.

MEASURES REFERRED

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

H.R. 4513. An act to provide that in preparing an environmental assessment or environmental impact statement required under section 102 of the National Environmental Policy Act of 1969 with respect to any action authorizing a renewable energy project, no Federal agency is required to identify alternative project locations or actions other than the proposed action and the no action alternative, and for other purposes; to the Committee on Environment and Public Works.

H.R. 4517. An act to provide incentives to increase refinery capacity in the United States; to the Committee on Environment and Public Works.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–7981. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Saab Model SAAB 2000 Series Airplanes; Doc. No. 2002–NM–259'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7982. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Model Hawker 800XP Airplanes; Doc. No. 2002–NM–277'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7983. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Gulfstream Aerospace LP Model 1125 Westwind Astra Series Airplanes; Doc. No. 2001–NM–402'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7984. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC 8 101, 102, 103, 106, 201, 301, 311, and 315 Airplanes on Which Engine Oil Coolers Have Been Installed per LORI Inc. Sup Type Cert. SA8937SW; Doc. No. 2003–NM–222'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7985. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 747 400 and 400D Series Airplanes; Doc. No. 2003–NO–93'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7986. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC 8 102, 103, 106, 201, 301, 311, and 315 Series Airplanes; Doc. No. 2004–NM–38'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7987. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dornier Model 328–300 Series Airplanes; Doc. No. 2003–NM–121'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7988. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 727 Series Airplanes; Doc. No. 2002–NM–273'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7989. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dornier Model 328–300 Series Airplanes; Doc. No. 2003–NM–138'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7990. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: General Electric Company CF6–80E1 Model Turbofan Engines; Doc. No. 2001–NE–45'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7991. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC 7 100 Series Airplanes; Doc. No. 2003–NM–153'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7992. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Honeywell International Inc. TPE331–10 and –11 Turboprop Engines; Doc. No. 2003–NE–02'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7993. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Raytheon Aircraft Company Model 1900C Airplanes; Doc. No. 2003–CE–27'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7994. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney JT9D 3A, 7, 7A, 7AH, 7F, 7J, 20, and 20J Turbofan Engines'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7995. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Holdrege, NE; Doc. No. 04–ACE–25'' (RIN2120–AA66) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7996. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Minden, NE; Doc. No. 04–ACE–26'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7997. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Superior, NE; Doc. No. 04–ACE–30'' (RIN2120–AA66) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7998. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Oshkosh, NE; Doc. No. 04–ACE–27'' (RIN2120–AA66) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–7999. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Saab Model SAAB Model SF340A and SAAB 340B Series Airplanes; Doc. No. 2002–NM–146'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8000. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Engine Components Inc (ECi) Reciprocating Engine Cylinders; Doc. No. 2004–NE–07'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8001. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC 8 70 and 70F Series Airplanes; Doc. No. 2001–NM133'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8002. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS355E, F, F1, F2, and N Helicopters; Doc. No. 2003–SW–56'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8003. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Eurocopter France Model AS332C, L, and L1 Helicopters; Doc. No. 2002–SW–45 CORRECTION'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8004. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Saab Model SAAB 340B Series Airplanes Equipped with Hamilton Sunstrand Propellers; Doc. No. 2002–NM–200'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8005. A communication from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Shipping-Technical Amendments'' (RIN2133–AB59) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8006. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Saab Model SAAB 2000 Series Airplanes; Doc. No. 2002–NM–261'' (RIN2120–AA64) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8007. A communication from the FMCSA Regulatory Officer, Federal Motor Carrier Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Parts and Accessories Necessary for Safe Operation; Fuel Systems'' (RIN2126–AA80) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8008. A communication from the Deputy Chief, Wireline Competition Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Access Charge Reform, Reform of Access Charges Imposed by Competitive Local Exchange Carriers, CC Doc. No. 96–262; Petition of Z-Tel Communications, Inc. For Temporary Waiver of Commission Rule 61–26(d) to Facilitate Deployment of Competitive Service in Certain Metropolitan Statistical Areas'' (FCC04–110) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8009. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Crystal Beach, Lumberton, and Winnie, Texas and Vinton, Louisiana'' (MB Doc. No. 02–212) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8010. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Cameron, First Mesa, Flagstaff, Dewey-Humboldt, Parker, Bagdad, Globe, Safford, Grand Canyon Village, Gilbert, and Chino Valley, Arizona'' (MB Doc. No. 02–73) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8011. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Ashland, Coaling, Cordova, Decatur, Dora, Hackleburg, Hobson City, Holly Pond, Killen Midfield, Scottsboro, Sylacauga and Tuscaloosa, Alabama, Atlanta, Georgia, and Pulaski, Tennessee'' (MB Doc. No. 03–77) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8012. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Ocilla and Ambrose, Georgia'' (MB Doc. No. 03–246) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8013. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Littleville and Russelville, Alabama'' (MB Doc. No. 04–12) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8014. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Linden and Marin, Alabama'' (MB Doc. No. 03–162) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8015. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations: Colby, KS0'' (MB Doc. No. 04–11) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8016. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Mt. Vernon and Okawville, Illinois, St. Louis, Missouri'' (MB Doc. No. 03–196) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8017. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Encinal, Texas'' (MM Doc. No. 02–349) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8018. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Post, O'Donnell, and Roaring Springs, Texas'' (MM Doc. No. 01–127) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8019. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations: Bloomington, IN'' (MM Doc. No. 03–230) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8020. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Implementation of Section 25 of the Cable Television Consumer Protection and Competition Act of 1992: Direct Broadcast Satellite Public Interest Obligations Sua Sponte Reconsideration'' (FCC 04–44) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8021. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Chase City, VA, Creedmoor, Ahoskie, Gatesville, and Nashville, NC'' (MB Doc. No. 03–232) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8022. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Glasgow and Bowling Green, Kentucky'' (MB Doc. No. 04–42) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8023. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations: Arlington, The Dalles, Moro, Fossil, Astoria, Gladstone, Portland, Tillamook, Coos Bay, Springfield-Eugene, Manzanita, and Hermiston, Oregon; Covington, Trout Lake, Shoreline, Bellingham, Forks, Hoquiam, Aberdeen, Walla Walla, Kent, College Place, Long Beach, and Ilwaco, Washington'' (MB Doc. No.) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8024. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations: Jackson, MS'' (MM Doc. No. 01–43) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8025. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations: Anniston, AL'' (MB Doc. No. 03–229) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8026. A communication from the Attorney Advisor, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of the Commission's Rules Regarding Dedicated Short-Range Communication Services in the 5.850–5.925 GHz Band'' (5.9GHz Band) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8027. A communication from the Legal Advisor, Wireline Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Part 97 of the Commission's Rules Governing the Amateur Radio Services'' (FCC04–79) received on June 15, 2004; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COCHRAN, from the Committee on Appropriations, without amendment:

S. 2537. An original bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes (Rept. No. 108–280).

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2013. A bill to amend section 119 of title 17, United States Code, to extend satellite home viewer provisions.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs:

*Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

By Mr. HATCH for the Committee on the Judiciary:

Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

*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.)

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 (for himself and Mr. DURBIN):

S. 2535. A bill to amend title XVIII of the Social Security Act to modernize the medicare program by ensuring that appropriate preventive services are covered under such program; to the Committee on Finance.

By Ms. COLLINS (for herself and Mr. WYDEN):

S. 2536. A bill to enumerate the responsibilities of the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security, to require the Inspector General of the Department of Homeland Security to designate a senior official to investigate civil rights complaints, and for other purposes; to the Committee on Governmental Affairs.

By Mr. COCHRAN:

S. 2537. An original bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 2538. A bill to provide a grant program to support the establishment and operation of Teachers Institutes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. DOMENICI, and Mr. SMITH):

S. 2539. A bill to amend the Tribally Controlled Colleges or University Assistance Act and the Higher Education Act to improve Tribal Colleges and Universities, and for other purposes; to the Committee on Indian Affairs.

By Ms. CANTWELL:

S. 2540. A bill to protect educational FM radio stations providing public service broadcasting from commercial encroachment; to the Committee on Commerce, Science, and Transportation.

By Mr. McCAIN (for himself, Mr. BROWNBACK, Mrs. HUTCHISON, and Mr. ALLEN):

S. 2541. A bill to reauthorize and restructure the National Aeronautics and Space Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KENNEDY (for himself and Mr. EDWARDS):

S. 2542. A bill to provide for review of determinations on whether schools and local educational agencies made adequate yearly progress for the 2002–2003 school year taking into consideration subsequent regulations and guidance applicable to those determinations, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. THOMAS (for himself and Mr. BURNS):

S. 2543. A bill to establish a program and criteria for National Heritage Areas in the United States, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. STABENOW (for herself, Mrs. LINCOLN, and Mr. LEVIN):

S. 2544. A bill to provide for the certification of programs to provide uninsured employees of small businesses access to health coverage, and for other purposes; to the Committee on Finance.

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

S. 2545. A bill to amend titles XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes; to the Committee on Finance.

By Mr. DURBIN:

S. 2546. A bill to amend the Federal Food, Drug, and Cosmetic Act to require premarket consultation and approval with respect to genetically engineered foods, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 382. A resolution authorizing the taking of a photograph in the Chamber of the United States Senate; considered and agreed to.

By Mr. CAMPBELL (for himself, Mr. DODD, Mr. SMITH, Mr. REID, Mr. DAYTON, and Mr. DEWINE):

S. Con. Res. 119. A concurrent resolution recognizing that prevention of suicide is a compelling national priority; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 640

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 640, a bill to amend subchapter III of chapter 83 and chapter 84 of title 5, United States Code, to include Federal prosecutors within the definition of a law enforcement officer, and for other purposes.

S. 893

At the request of Mr. SANTORUM, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 893, a bill to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment, and for other purposes.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S . 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make

grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1557

At the request of Mr. MCCONNELL, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S . 1557, a bill to authorize the extension of nondiscriminatory treatment (normal trade relations treatment) to the products of Armenia.

S. 1890

At the request of Mr. ENZI, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1890, a bill to require the mandatory expensing of stock options granted to executive officers, and for other purposes.

S. 1916

At the request of Ms. LANDRIEU, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 2158

At the request of Ms. COLLINS, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2158 , a bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

S. 2176

At the request of Mr. BINGAMAN, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S . 2176, a bill to require the Secretary of Energy to carry out a program of research and development to advance high-end computing.

S. 2253

At the request of Mrs. FEINSTEIN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2253, a bill to permit young adults to perform projects to prevent fire and suppress fires, and provide disaster relief, on public land through a Healthy Forest Youth Conservation Corps.

S. 2351

At the request of Ms. COLLINS, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 2351, a bill to establish a Federal Interagency Committee on Emergency Medical Services and a Federal Interagency Committee on Emergency Medical Services Advisory Council, and for other purposes.

S. 2363

At the request of Mr. LEAHY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S . 2363, a bill to revise and extend the Boys and Girls Clubs of America.

S. 2434

At the request of Mr. HATCH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2434, a bill to establish the Commission to Study the Potential Creation of a National Museum of the American Latino Community to develop a plan of action for the establishment and maintenance of a National Museum of the American Latino Community in Washington, D.C., and for other purposes.

S. 2447

At the request of Mr. LIEBERMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2447, a bill to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the National Institute of Child Health and Human Development to study the role and impact of electronic media in the development of children.

S. 2474

At the request of Mr. ALLARD, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S . 2474, a bill to amend the Internal Revenue Code of 1986 to allow penalty-free withdrawals from retirement plans during the period that a military reservist or national guardsman is called to active duty for an extended period, and for other purposes.

S. 2525

At the request of Mr. SPECTER, the names of the Senator from Connecticut (Mr. DODD), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maine (Ms. COLLINS), the Senator from Maine (Ms. SNOWE), the Senator from New York (Mrs. CLINTON), the Senator from Rhode Island (Mr. REED), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 2525, a bill to establish regional dairy marketing areas to stabilize the price of milk and support the income of dairy producers.

S. 2529

At the request of Mr. GRASSLEY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2529, a bill to extend and modify the trade benefits under the African Growth and Opportunity Act.

S. CON. RES. 8

At the request of Ms. COLLINS, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution designating the second week in may each year as ''National Visiting Nurse Association Week.''

S. CON. RES. 75

At the request of Mr. DURBIN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. Con. Res. 75, a concurrent resolution expressing the sense of the Congress that a commemorative postage stamp should be issued to promote public awareness of Down syndrome.

S. CON. RES. 110

At the request of Mr. CAMPBELL, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mr. COLEMAN), the Senator from Oregon (Mr. WYDEN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. Con. Res. 110, a concurrent resolution expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence.

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 313

At the request of Mr. FEINGOLD, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. Res. 313, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to coordinate with implementing partners in creating an online database of international exchange programs and related opportunities.

S. RES. 357

At the request of Mr. CAMPBELL, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. Res. 357, a resolution designating the week of August 8 through August 14, 2004, as ''National Health Center Week.''

AMENDMENT NO. 3171

At the request of Ms. LANDRIEU, the names of the Senator from New Jersey (Mr. CORZINE) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of amendment No. 3171 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3235

At the request of Mr. BROWNBACK, the names of the Senator from Georgia (Mr. MILLER) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of amendment No. 3235 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities

of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3264

At the request of Mr. PRYOR, the names of the Senator from New York (Mrs. CLINTON) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 3264 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3315

At the request of Ms. LANDRIEU, the names of the Senator from Maine (Ms. SNOWE), the Senator from South Dakota (Mr. DASCHLE), the Senator from Nevada (Mr. REID), the Senator from Minnesota (Mr. DAYTON), the Senator from Florida (Mr. NELSON), the Senator from Washington (Mrs. MURRAY), the Senator from New Jersey (Mr. CORZINE), the Senator from New York (Mr. SCHUMER), the Senator from Arkansas (Mr. PRYOR) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of amendment No. 3315 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3352

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 3352 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3355

At the request of Mr. REED, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of amendment No. 3355 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3368

At the request of Mr. LEVIN, his name was added as a cosponsor of amendment No. 3368 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3379

At the request of Mr. BIDEN, the names of the Senator from New York (Mrs. CLINTON), the Senator from Delaware (Mr. CARPER), the Senator from New Jersey (Mr. CORZINE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 3379 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3384

At the request of Mr. BOND, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of amendment No . 3384 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3397

At the request of Mr. HARKIN, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of amendment No. 3397 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3427

At the request of Mrs. MURRAY, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of amendment No. 3427 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3434

At the request of Mr. MCCONNELL, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 3434 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3440

At the request of Mr. ENSIGN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of amendment No. 3440 proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3441

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 3441 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3442

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 3442 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3443

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 3443 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3444

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 3444 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe

personnel strengths for such fiscal year for the Armed Services, and for other purposes.

AMENDMENT NO. 3445

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of amendment No. 3445 intended to be proposed to S. 2400, an original bill to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 2535. A bill to amend title XVIII of the Social Security Act to modernize the medicare program by ensuring that appropriate preventive services are covered under such program; to the Committee on Finance.

Mr. GRAHAM of Florida. Mr. President, I am very pleased to introduce the Medicare Preventive Services Coverage Act of 2004, and to be joined by Senator RICHARD DURBIN.

This legislation would change the basic charter of Medicare to one that not only diagnoses and treats, but also prevents illness.

On July 30, 1965, Medicare was created under title 18 of the Social Security Act to provide health insurance coverage for the elderly.

The coverage provided through the program was limited to diagnostic and treatment services that were considered reasonable and necessary.

There was little demand to cover preventive services under Medicare or any other health plan at that time because we were not yet cognizant of the vital role of prevention on the health and quality of human life.

The basic charter of Medicare reflects this lack of understanding.

However, since Medicare's inception, we have learned a lot about the enormous burden of chronic disease on our Nation.

According to the Centers for Disease Control and Prevention, CDC, more than 1.7 million Americans die of a chronic disease each year, accounting for about 70 percent of all deaths.

Not only does chronic disease lead to a majority of deaths and disabilities in America, it also accounts for about 75 percent of health care costs each year, placing a huge economic demand on our Nation.

Medicare bears a lion's share of this cost. In 2003, Medicare spent nearly $7,000 per beneficiary; much of this cost is attributable to treating chronic illnesses.

The percentage of the population over age 65 has increased dramatically and will continue to do so. This will place an even greater economic burden on Medicare.

What is the bottom line? In short, Medicare cannot afford this spiraling cost.

The good news is that we now have decades of research demonstrating that although chronic diseases are the most common and costly of all health problems, they are also the most preventable.

For example, according to the CDC regular eye exams and timely treatment could prevent up to 90 percent of diabetes related blindness.

Eye chart screening for visual acuity is currently recommended by the United States Preventive Services Task Force, USPSTF, but is not covered by Meidcare.

The impact of prevention on chronic disease is well known by the President's Secretary for Health and Human Services.

HHS Secretary Thompson said in September 2003:

> There is clear evidence that the costs of chronic conditions are enormous, as are the potential savings from preventing them, even if there may not always be agreement on the exact amounts of these cost savings.

He goes on to say:

> . . . the Nation simply cannot afford not to step up efforts to reverse the growing prevalence of chronic disorders. Resources and energy need to be marshaled in all sectors and at all levels of society.

Partnership for Prevention, a Washington, DC, think tank on health policy takes Thompson's comments one step further. A recent Partnership report makes the following logical assumption:

> As the primary source of health insurance coverage for millions of older Americans and persons with permanent disabilities, Medicare has the potential to have a substantial impact on the health of beneficiaries by promoting and covering cost-effective preventive services.

Congress has added coverage for some preventive services over the last two decades, including the flu vaccine, mammograms, and cancer screening.

As HHS does not have the authority to add preventive services to Medicare—despite the growing body of evidence that has proved their efficacy—these benefits were only added to Medicare because of congressional action.

The benefits that Congress have added are extremely important, and I am glad that we have taken the steps to make them available to our seniors.

However, the congressional process is slow, and subject to political winds and influences that are not always based purely in science.

The legislation I am introducing would change the basic charter of Medicare from a program focused on diagnosing and treating illnesses to one that also prevents illnesses by giving the Department of Health and Human Services the authority to make coverage decisions for preventive services.

Why change the current system of passing legislation each time we want to add coverage of preventive service to Medicare? There are some very logical reasons.

The reliance on Congress to cover preventive services has resulted in: Coverage for only half of clinical preventive services that experts recommend for the 65+ age group; coverage that not only fails to keep up with changes in scientific evidence but is often in consistent with authoritative recommendations; a confusing array of cost sharing requirements across covered preventive services; and lack of coverage of some preventive services that provide great health benefits in favor of others that do not meet current evidence standards as a result of vocal advocacy groups.

Luckily, the fundamental reform of the program that I am proposing does not require extensive statutory or bureaucratic change.

Medicare already has a process in place for the Secretary of Health and Human Services to make coverage decisions on diagnostic, treatment, and durable medical equipment options.

My bill would authorize the Secretary to make coverage decisions on preventive services using that same process, based on the recommendations of the federally-convened United States Preventive Services Task Force, USPSTF, and other groups.

This authorization would not entail dramatic new administrative expenses or a major reorganization of CMS coverage processes and staff.

My legislation would put preventive services on an equal footing with diagnostic and treatment services by allowing the Secretary to make coverage decisions for all services needed to prevent, diagnose, and treat illness.

Providing beneficiaries with the most cost-effective and current preventive services should no longer require an ''Act of Congress.''

It should, instead, require the insight of the experts in the field, and be based on the same careful process HHS is currently using.

Let us untie their hands and improve the lives of our Medicare beneficiaries by building coverage of preventive services into the currently established coverage decision process.

This legislation is supported by the following groups: American College of Preventive Medicine; HealthPartners; Deafness Research Foundation; Partnership for Prevention; American Dietetic Association; American Public Health Association; Families USA; American Physical Therapy Association; American Academy of Family Physicians; United Cerebral Palsy Association; National Mental Health Association; Campaign for Tobacco-Free Kids, and the Emergency Department Practice Management Association.

If Medicare were created today, it would certainly not exclude coverage of preventive services.

Today we know how important preventive services are; they save money and lives. Let us give Medicare the authority to do its job.

I urge my colleagues to join me in sponsoring this important piece of legislation.

I ask unanimous consent to print letters of support from the above-listed groups in the RECORD.

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

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, DC, June 1, 2004.

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

DEAR SENATOR GRAHAM: On behalf of the American Public Health Association (APHA), the largest and oldest organization of public health professionals in the country, representing more than 50,000 members from over 50 public health occupations, I write in support of the Medicare Preventive Services Coverage Act of 2004.

As outlined in position paper 7633, ''Policy Statement on Prevention,'' APHA has long supported measures to increasingly utilize the fund preventive services in federal health programs. In this vein, the Medicare Preventive Services Coverage Act of 2004 demonstrates a significant commitment to addressing the underlying factors responsible for the underutilization of prevention strategies that optimize the health and independence of the elderly by granting the Secretary the authority to approve Medicare coverage of preventive services based on recommendations of the U.S. Preventive Services Task Force and other groups. By allowing decisions about coverage of preventive services to be made in the same timely, evidence-based manner as other services under Medicare, the legislation would enable Medicare to take a vital step towards focusing more on disease prevention, which is cost-effective and has the ability to prevent or delay the occurrence of chronic disease.

Since the creation of Medicare, the American Public Health Association has supported measures to protect Medicare beneficiaries against significant financial exposure that imposes barriers to the receipt of needed care. The provisions of the Medicare Preventive Services Act of 2004 that aim to eliminate co-payments and deductibles from all future preventive benefits serve to ensure that Medicare beneficiaries will not be restricted from accessing needed preventive medical care because of financial hardship.

Thank you for your attention to and leadership on this important public health issue. We look forward to working with you to move legislation forward this year.

Sincerely
GEORGES C. BENJAMIN, MD, FACP,
Executive Director.

JUNE 2, 2004.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: Congratulations on the introduction of your new legislation to provide a permanent solution to Medicare's long-standing failure to cover appropriate preventive health services. Families USA, the health consumer advocacy organization, strongly endorses your effort.

Currently, life-saving and life-improving preventive screening services have been covered only by an act of Congress—and usually only after long and difficult debates. Your proposal will place this basic scientific and technical issue in the excellent medical staff of the Centers for Medicare and Medicaid Services, where decisions can be made on a more timely, professional and scientific basis. We believe that this will help ensure that important preventive care services will be implemented in a more timely and rational way. The result will be an improvement in the quality of life of Medicare beneficiaries.

Congratulations again on this proposal—one of a long-line of creative and helpful health initiatives that you have championed in your outstanding Senate career.

Sincerely,
RONALD F. POLLACK,
Executive Director.

AMERICAN PHYSICAL THERAPY ASSOCIATION,
Alexandria, VA, June 2, 2004.

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

DEAR SENATOR GRAHAM: On behalf of the 64,000 members of the American Physical Therapy Association (APTA), I commend you for your efforts to promote the full continuum of health care for our nation's seniors and persons with disabilities served by the Medicare program. APTA appreciates the introduction of your legislation, the Medicare Preventative Services Coverage Act of 2004 and fully supports its enactment by the 108th Congress. Prevention services are an essential part of the health care continuum that needs better integration into the Medicare program, and your legislation goes a long way toward achieving that objective.

Physical therapists provide prevention services that forestall or prevent functional decline and the need for more intense care. Through timely and appropriate screening, examination, evaluation, diagnosis, prognosis, and intervention, physical therapists frequently reduce or eliminate the need for more costly forms of care and also may shorten or even eliminate institutional stays. Physical therapists are actively involved in promoting health, wellness and fitness initiatives, including the provision of services and education of patients that stimulate the public to engage in healthy behaviors. An example of physical therapist involvement in preventive services is the use of therapeutic interventions to improve strength, mobility, and balance to reduce falls that often lead to more costly health care and disability under Medicare.

Thank you for your commitment to improving the Medicare program. The addition of appropriate preventative services to the Medicare program will help our nations' seniors and persons with disability lead more healthy and productive lives within our communities. Please feel free to contact Justin Moore on APTA's Government Affairs staff at justinmoore@apta.org or 703/706–3162, if you have any questions or need additional information.

Sicnerely,
BEN F. MASSEY, Jr., PT, MA,
President.

AMERICAN ACADEMY OF FAMILY PHYSICIANS,
Washington, DC, June 9, 2004.

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

DEAR SENATOR GRAHAM: Thank you for the opportunity to review the draft of your legislation, the Medicare Preventive Services Coverage Act. On behalf of the 93,700 members of the American Academy of Family Physicians, I am pleased to inform you that the AAFP strongly endorses the bill, and we congratulate you for your efforts on behalf of the nation's seniors.

This legislation would help make Medicare more responsive to the people that it directly serves. By allowing CMS to cover preventive services that are based on evidence and current science and that have been reviewed and approved by the United States Preventive Services Task Force and other appropriate organizations, the bill helps direct Medicare toward proven health care services that will keep seniors healthier. The AAFP commends your commitment to evidence-based measures that will prevent accidents and illness and provide more effective health care. We believe that sound science should always be the basis of medical decisions.

The Academy would urge you and your colleagues in Congress to consider giving CMS the authority to review current preventive services in the light of the U.S. Preventive Services Task Force recommendations and to alter reimbursement accordingly. And we would also suggest that Congress might want to make more explicit the agency's authority to review and revise payments as the evidence of previously approved services changes.

Thank you, Senator Graham, for your commitment to the health of Medicare patients and for your leadership in improving this important program that serves them.

Sincerely,
JAMES C. MARTIN, MD, FAAFP,
Board Chair.

AMERICAN COLLEGE OF PREVENTIVE MEDICINE,
June 4, 2004.

The American College of Preventive Medicine (ACPM) is very pleased to support Senator Bob Graham's bill granting the Secretary of Health and Human Services the authority to approve Medicare coverage of preventive medical services from the recommendations of the United States Preventive Services Task Force (USPSTF) and other appropriate organizations.

As the representative organization for preventive medicine physicians, ACPM understands the potential long-term benefits from clinical preventive services supported by evidence to have a beneficial impact on survival and quality of life. As the population of the United States ages, preventive services will become the best strategy to keep people healthy and to conserve medical expenditures.

Therefore, the ACPM offers its full support of Senator Graham's proposed legislation to include preventive services under Medicare coverage.

MIKE BARRY,
Deputy Director.

AMERICAN DIETETIC ASSOCIATION,
Chicago, IL, June 2, 2004.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: The American Dietetic Association (ADA) is the largest organization of food and nutrition professionals in the U.S. We promote optimal nutrition and well being of all people, by relying on evidence-based practices and policies. To that end, ADA is pleased to support the Medicare Preventive Services Coverage Act of 2004.

Nutrition is a critical element to any comprehensive health care program and in particular preventive services. According to the Department of Health and Human Services, 40 percent of Americans age 40 to 74 suffer from pre-diabetes. The evidence shows that proper nutrition and physical activity can prevent many, if not most of these Americans from developing type II diabetes. In cardiovascular care, the evidence shows that proper preventive nutrition intervention can slow or reverse conditions such as hypertension or dyslipidemia. Unfortunately, Medicare does not recognize the importance of preventive care in general and preventive nutrition therapy specifically.

When Congress passed the Medicare Modernization Act last year, it included a new provision for preventive care under Sec. 611,

the Initial Preventive Physical Examination. While referral to medical nutrition therapy is specifically mentioned in the bill, CMS is interpreting this new language as limited to only those diseases (diabetes and renal) that are already eligible for MNT. As a result of this interpretation, patients diagnosed during the initial preventive physical exam as having pre-diabetes, must wait until their conditions progress to type II diabetes before Medicare will cover nutrition therapy.

Such an approach to preventive care is poor health policy and poor fiscal management of the program. Your Medicare Preventive Services Coverage Act if enacted, will promote preventive care within Medicare to the status it deserves. ADA commends your efforts and foresight.

Sincerely,

RONALD E. SMITH,
Director of Government Relations.

CAMPAIGN FOR
TOBACCO-FREE KIDS,
June 14, 2004.

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

DEAR SENATOR GRAHAM: The Campaign for Tobacco-Free Kids is pleased to lend its support to your bill, The Medicare Preventive Services Coverage Act of 2004.

This bill will help provide the scientific foundation and evidence-based decisions that are critical for ensuring that the Medicare program provides the most effective preventive services to all Medicare beneficiaries. This bill will help shift the emphasis of the Medicare program from treating illness to one where the focus is more on wellness, health promotion and prevention. With nearly three-quarters of all illnesses in this country related to preventable conditions such as tobacco use, lack of proper nutrition and physical fitness, obesity and diabetes, it makes perfect health and fiscal sense to enact such changes into the Medicare program.

With the recent inclusion of prescription drug coverage to the Medicare program, including coverage for prescription tobacco use cessation medications such as nicotine nasal spray and bupropion SR, this bill represents a tremendous opportunity to enhance and compliment this new coverage through the provision of tobacco use cessation counseling services. According to the U.S. Preventive Services Task Force, next to childhood immunizations, tobacco cessation counseling is the most clinically effective preventive service that we have. Furthermore, we know that counseling services double the number of successful quit smoking attempts versus people who try to quit ''cold turkey''. And when combined with medications, there is nearly a four-fold increase in successful quit attempts. With about 10 percent of all Medicare beneficiaries still smoking, about 4.5 million people, such a benefit would have a tremendous impact on the health and quality of life of our nation's seniors.

Again, the Campaign for Tobacco-Free Kids is proud to support this important piece of public health legislation.

Sincerely,

MATTHEW L. MYERS,
President.

PARTNERSHIP FOR PREVENTION,
Washington, DC, June 2, 2004.

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

DEAR SENATOR GRAHAM: Thank you for requesting Partnership for Prevention's comments on Medicare policy concerning disease prevention and health promotion.

Partnership strongly recommends that Congress modernize Medicare by directing the Centers for Medicare and Medicaid Services to make coverage decisions for disease prevention and health promotion services based on evidence-based recommendations such as those of the U.S. Preventive Services Task Force and the Advisory Committee on Immunization Practices. This was one of the principal policy recommendations in Partnership's 2003 report, A Better Medicare for Healthier Seniors: Recommendations to Modernize Medicare's Prevention Policies. We understand that you plan to introduce legislation that would bring about such a policy change.

When Congress created Medicare in 1965, it designed the program based on the knowledge of health, medicine and health care at that time. Thus, Medicare focused on hospitalization and visits to doctors' offices to treat or diagnose seniors who were already showing signs of illness. Medicine has made great progress since then, including development of proven ways to prevent disease and promote longer, healthier lives. But Medicare has consistently lagged behind the curve, failing to cover proven disease prevention and health promotion services or providing coverage years later than private insurers.

Allowing Medicare coverage decisions for preventive services to be made following a similar process as diagnosis and treatment decisions is an important step in modernizing Medicare. It is also critical that these coverage decisions be informed by systematic reviews of evidence conducted by independent experts, such as the U.S. Preventive Services Task Force. We understand that your bill would address these issues and enable Medicare to keep pace with progress in preventive medicine and health promotion.

Partnership's Better Medicare report also noted that use rates for most preventive services that are covered by Medicare fall short of national targets, in part because of a confusing array of cost sharing requirements, such as deductibles and co-payments for these services. We understand that your bill would eliminate these impediments for preventive services covered in the future.

Most Americans understand that it is preferable to help people stay healthy instead of waiting to treat them after they become sick. It is in our nation's interest for seniors to be healthy instead of infirm, active instead of hospitalized, productive instead of costly, independent instead of dependent. Cost-saving and cost-effective disease prevention and health promotion are sound investments for our country.

Thank you again for requesting our comments on these important facets of Medicare policy.

Sincerely,

JOHN M. CLYMER,
President.

DEAFNESS RESEARCH FOUNDATION,
Washington, DC, June 2, 2004.

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the Deafness Research Foundation and World Council on Hearing Health, we fully support the Amendment to Title XVII of the Social Security Act to modernize the Medicare program so as to ensure preventive services be covered under the program.

The Deafness Research Foundation and its public education and advocacy arm, called the World Council on Hearing Health's mission is to make a lifetime of hearing possible for all people through quality research, public education and advocacy. We espouse the program platforms of detection, prevention, intervention and research about hearing loss. Therefore, we fully support your draft bill that will allow for the Secretary of Health and Human Services be granted the authority to approve Medicare coverage of preventive services based on recommendations of the U.S. Preventive Services Task Force and other organizations if enacted.

Early detection of hearing loss through regular hearing checkups (at least once every two years) from childhood to adulthood is a key to early intervention as needed. For babies and children it is especially important so their educational, emotional and social development is not halted nor compromised. In adults, early detection of hearing loss is the best prevention against further damaging one's hearing not to mention the impact hearing loss can have on one's career and quality of life. In the elderly, the ability to diagnose hearing loss early on is an imperative to combat misdiagnoses of dementia and senility.

We commend you on taking the initiative to propose this bill and we will tell the 40,000 donors and members of Deafness Research Foundation to fervently follow its progress.

Sincerely,

SUSAN GRECO,
Executive Director.

JUNE 3, 2004.

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

DEAR SENATOR GRAHAM: I am writing on behalf of HealthPartners in support of the ''Medicare Preventive Services Coverage Act of 2004''. HealthPartners is a consumer-governed family of nonprofit Minnesota health care organizations focused on improving the health of its members, its patients and the community. HealthPartners and its related organizations provide health care services, insurance and HMO coverage to more than 670,000 members. The key features of this bill would go far in helping to improve the health of Medicare enrollees.

This bill would put disease prevention on a level playing field with disease detection and treatment under Medicare. It would also permit preventive service coverage decisions to be based on evidence. We believe strongly that appropriate preventive services should be included in the Medicare benefit set and that those benefits should be evidence-based. Using the United States Preventive Services Task Force (and other appropriate organizations') recommendations as a guide for the addition of preventive services is an excellent step.

We encourage the Secretary and Congress to continue to focus benefits in both the Medicare and Medicaid programs on evidence based medicine. Evidence based care provides the structure for the right services to be delivered at the right time in the right location for enrollees of all ages. This, in turn, supports achieving the six aims for care as outlined by the Institute of Medicine: care that is patient-centered, timely, effective, efficient, equitable and safe. We support your efforts to achieve these ends.

Sincerely,

GEORGE ISHAM, M.D.,
Medical Director and
Chief Health Officer.

EMERGENCY DEPARTMENT PRACTICE
MANAGEMENT ASSOCIATION,
McLean, VA, June 16, 2004.

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

DEAR SENATOR GRAHAM: Thank you for the opportunity to review your draft legislation, the Medicare Preventive Services Coverage Act. On behalf of the Emergency Department Practice Management Association's members, we congratulate you on your efforts in

this area and strongly support this legislation as it reflects sound health policy.

EDPMA members work with their hospital partners to provide quality patient care in the emergency departments across the country. As you know, overcrowding in emergency departments is a serious problem. By expanding Medicare's coverage of preventative services, we believe that Medicare patients will have incentives to get treatment in less acute settings.

Emergency departments are a key element of the nation's safety net. While we support expansion of Medicare benefits, we believe it is of critical importance that Medicare's physician fee schedule appropriately capture emergency physician's uncompensated care costs. We look forward to working with you to address this problem.

Like you, EPDMA is dedicated to providing quality care to Medicare's patients. We join you in support of this legislation and appreciate your on-going leadership in health policy.

Sincerely,

EMILY R. WILSON,
Managing Director.

NATIONAL MENTAL HEALTH ASSOCIATION,
Alexandria, VA, June 16, 2004.

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

DEAR SENATOR GRAHAM: On behalf of the National Mental Health Association (NMHA), I am writing to commend you for introducing the Medicare Preventive Services Coverage Act of 2004. Prevention and early detection of mental illness are critical components to ensuring overall well-being that have long been overlooked, particularly with regard to Medicare beneficiaries. Your bill represents a major step forward in recognizing that mental illness can be prevented and successfully treated, especially if detected early. Prevention services provided through this legislation will undoubtedly lead to improved access to and utilization of mental health treatment among a population in which mental illness has been severely under-diagnosed.

NMHA is the nation's oldest and largest advocacy organization addressing all aspects of mental health and mental illness. With more than 340 affiliates nationwide, we work to improve the mental health of all Americans through advocacy, education, research, and service. Prevention of mental illness is a key element of our mission, and we are heartened by your efforts to ensure that Medicare beneficiaries receive a full complement of preventive services, including mental health services.

As you know, mental illness affects a very large segment of the Medicare population, but few receive the treatment they need. According to the Surgeon General's 1999 Report on Mental Health, some 20 percent of those 55 and older experience specific mental disorders that are not part of normal aging, including phobias, obsessive-compulsive disorder, and depression, and 40 percent of those on Medicare because of a disability, face mental illness. Major depression is particularly prevalent among older Americans: in primary care settings, 37 percent of seniors display symptoms of depression.

However, all too often seniors and people with disabilities struggle with mental illness alone and without treatment and support. It is estimated that only half of older adults who acknowledge mental health problems actually are treated. A very small percentage of older adults—less than 3 percent—report seeing mental health professionals for treatment. This lack of care has tragic consequences as illustrated by the fact that Americans 65 and older have the highest rate of suicide in the country, accounting for 20 percent of suicide deaths.

The President's New Freedom Commission on Mental Health found that ''[t]he number of older adults with mental illnesses is expected to double to 15 million in the next 30 years [and that] [m]ental illnesses have a significant impact on the health and functioning of older people and are associated with increased health care use and higher costs.'' New Freedom Commission on Mental Health, Achieving the Promise: Transforming Mental Health Care in America. Final Report, p. 59. The Commission recommended that ''[a]ny effort to strengthen or improve the Medicare and Medicaid programs should offer beneficiaries options to effectively use the most up-to-date [mental health] treatments and services.'' Id., p. 26.

Early detection and intervention services are essential for preventing mental health problems from compounding and for lessening long-term disability that can result from mental illness. The President's Commission stated that early assessment and treatment are critical across the life span and found that ''[n]ew understanding of the brain indicates that early identification and intervention can sharply improve outcomes and that longer periods of abnormal thoughts and behavior have cumulative effects and can limit capacity for recovery.'' Id., p. 57. Numerous studies have indicated that prevention and early intervention services for seniors result in improved mental health conditions, positive behavioral changes, and decreased use of inpatient care.

Thank you again for introducing the Medicare Preventive Services Coverage Act of 2004. By incorporating preventive mental health services into the Medicare program, this bill will substantially improve access to treatment for a population with tremendous mental health needs.

Sincerely,

MICHAEL M. FAENZA, MSSW,
President and CEO.

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

DEAR SENATOR GRAHAM: United Cerebral Palsy would like to lend our wholehearted support to the Medicare Preventive Services Coverage Act of 2004 that would amend the Social Security Act and the Medicare Prescription Drug Improvement and Modernization Act of 2003 to make a broad array of preventive health care services a standard part of Medicare. To date, the Congress has added selected preventive services to Medicare but has not included other services that are proven effective; nor has it encouraged Medicare to take a comprehensive approach to disease prevention and health promotion for American seniors and people with disabilities. Passage of this legislation would mean that, for the first time and to the benefit of millions of Americans, prevention would be placed on a level playing field with disease detection, diagnosis and treatment under Medicare.

We thank you for recognizing that prevention is a good investment, diminishing disability and discomfort, leading to less time spent in hospitals and in nursing homes and more time spent at home and in the community. In many cases, effective preventive services will generate cost savings for Medicare, as well as providing beneficiaries with more productive years of life.

About one in eight of Medicare's 40+ million beneficiaries, about 5 million people, are people with disabilities under age 65, people who have worked and become disabled, or who are the adult dependents or survivors of eligible workers. According to the National Economic Council, these beneficiaries are 35 percent less likely to have any sort of employer-based coverage, compared to elderly beneficiaries who sometimes have coverage through retiree health plans. Thus, access to any prevention benefits outside their Medicare coverage is severely limited.

For individuals with disabilities, prevention is truly no less important than medical treatment. A primary disability can often mean that a person is extremely at risk for, or susceptible to, secondary health or disabling conditions. Compounding this fact is the fact that many of these secondary conditions may be low-incidence conditions that affect only a small population and would, therefore, not necessarily be those that come to the attention of Congress when new coverage decisions are made.

Additionally, as people with a wide range of disabilities grow older, the impact of their disability may lead to premature occurrence of age-related conditions. Clearly, the Medicare Preventive Services Coverage Acts of 2004 would be of great assistance to these beneficiaries by allowing decisions about coverage of preventive services to be made in the same manner as coverage decisions for other services, making preventive service coverage decisions more timely, individualized and evidence-based.

We are also pleased that the bill would eliminate co-payments and deductibles from all future preventive benefits. There is currently a confusing array of cost-sharing requirements across Medicare's covered preventive benefits, and Medicare beneficiaries with disabilities are more likely to have lower incomes. By definition, people receiving disability insurance often are unable to engage in full-time work due to their conditions, and more than three-fourths of these beneficiaries have income below 200 percent of the poverty level, compared to half of elderly beneficiaries.

United Cerebral Palsy wishes you the best and offers our support in gaining passage of this critical legislation.

Sincerely,

STEPHEN BENNETT,
President and Chief Executive Officer, United Cerebral Palsy.

By Ms. COLLINS (for herself and Mr. WYDEN):

S. 2536. A bill to enumerate the responsibilities of the Officer for Civil Rights and Civil Liberties of the Department of Homeland Security, to require the Inspector General of the Department of Homeland Security to designate a senior official to investigate civil rights complaints, and for other purposes; to the Committee on Governmental Affairs.

Mr. COLLINS. Mr. President, today Senator WYDEN and I are introducing the Homeland Security Civil Rights and Civil Liberties Protection Act of 2004. It has been a pleasure to work with my colleague from Oregon on this legislation to strengthen protections for civil rights and civil liberties. In the wake of the terrorist attacks on September 11, 2001, during his joint address to Congress, the President called on all Americans to ''uphold the values of America and remember why so many have come here. We're in a fight for our principles, and our first responsibility is to live by them.''

In response to the need to safeguard our homeland, Congress enacted the Homeland Security Act of 2002 that

created the Department of Homeland Security, the most significant government restructuring in more than 50 years. But in focusing our attention on protecting the homeland from future terrorist attacks, we also must ensure that we do not trample on the very values that the terrorists seek to destroy. In enacting the Homeland Security Act, Congress understood the importance of providing checks and balances to protect civil rights and civil liberties. To this end, Congress created within the Department three positions devoted wholly or in part to ensuring respect for civil liberties as the Department carries out its mandate to protect our homeland. These positions are the Officer for Civil Rights and Civil Liberties, the Privacy Officer, and the Department's Inspector General. These three officials have crucial roles in assessing actions of the Department that may affect personal privacy, civil rights, and civil liberties.

The nature of the mission of the Department of Homeland Security makes safeguards especially important. The Department is now our country's biggest law enforcement agency. It has more Federal officers with arrest and firearm authority than the Department of Justice. In addition, DHS law enforcement personnel have contact with thousands of people every day. In this post 9/11 world, DHS law enforcement personnel must be especially sensitive to maintaining civil liberties as they work to strengthen security and detect and deter terrorist attacks.

I am pleased that the leadership of the Department recognizes the fundamental importance of protecting the rights of all of us while fighting terrorism. Under the leadership of Secretary Ridge, the new Department of Homeland Security has won praise for its commitment to the protection of our freedoms. Secretary Ridge has provided the Officer for Civil Rights and Civil Liberties and the Privacy Officer with the tools they need to be effective. These officials have functioned at the senior level, regularly providing advice to the Secretary and his deputies. The Officer for Civil Rights and Civil Liberties, the Privacy Officer and the Inspector General have met regularly with organizations concerned about civil liberties, privacy, human rights, and immigrant rights and have been responsive to their concerns.

It is time for Congress to build on the foundation Secretary Ridge has laid in protecting civil rights and civil liberties. I believe the Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 does exactly that.

The bill would write into law the activities of the Officer for Civil Rights and Civil Liberties. As enacted, the Homeland Security Act did not clearly define the duties of that position. Over the past year, however, a strong Officer, with the support of the Department's leadership, has charted an important course for his office. The Officer has worked closely with the senior leadership of the Department. He has assisted in the development of departmental policies to ensure that civil liberties are given due consideration. He has overseen compliance with constitutional and other requirements relating to the rights and liberties of individuals affected by the Department's programs. He has coordinated with the Privacy Officer to ensure that overlapping privacy and civil rights concerns are addressed in a comprehensive way. And he has investigated alleged abuses of civil rights and civil liberties.

None of these activities is expressly addressed in the statutory language creating the Department, and there is no assurance in the law that future Officers for Civil Rights and Civil Liberties will work so energetically to carry out these vital duties. It is time for the law to catch up with practice, and the Homeland Security Civil Rights and Civil Liberties Protection Act ensures that goal.

The bill also clarifies that the Officer for Civil Rights and Civil Liberties as well as the Privacy Officer should report directly to the Secretary, and requires coordination between those officers to ensure an integrated and comprehensive approach to the important issues they address.

The Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 strengthens the ability of the Department's Inspector General to safeguard civil rights and civil liberties by requiring the DHS Inspector General to designate a senior official to coordinate investigation of abuses, ensure public awareness of complaint procedures, and coordinate his or her work with the Officer for Civil Rights and Civil Liberties. This position is similar to one Congress created in the Office of the Inspector General of the Department of Justice.

Finally, the Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 amends the mission statement of the Department of Homeland Security to ensure that actions taken by the Department to protect the homeland do not diminish civil liberties and civil rights. This important revision places into the statutory language that the protection of civil rights and civil liberties is crucial in this time of heightened security.

The battle against terror will last for many years, perhaps decades. During that long struggle, we must continue to secure our nation against future attacks, but at the same time protect those American values that define our free society. The Homeland Security Civil Rights and Civil Liberties Protection Act of 2004 will strengthen the protection of civil rights and civil liberties and will help to ensure that that protection will continue in the years to come.

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. 2536

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 ''Homeland Security Civil Rights and Civil Liberties Protection Act of 2004''.

SEC. 2. MISSION OF DEPARTMENT OF HOMELAND SECURITY.

Section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)) is amended—

(1) in subparagraph (F), by striking ''and'' after the semicolon;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following:

''(G) ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland; and''.

SEC. 3. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

Section 705(a) of the Homeland Security Act of 2002 (6 U.S.C. 345(a)) is amended—

(1) in the matter preceding paragraph (1), by inserting ''report directly to the Secretary and shall'' after ''who shall'';

(2) in paragraph (1), by striking ''and'' at the end;

(3) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

''(3) assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities;

''(4) oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities of the Department;

''(5) coordinate with the Privacy Officer to ensure that—

''(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

''(B) Congress receives appropriate reports regarding such programs, policies, and procedures; and

''(6) investigate complaints and information indicating possible abuses of civil rights or civil liberties, unless the Inspector General of the Department determines that any such complaint or information should be investigated by the Inspector General.''.

SEC. 4. PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES BY OFFICE OF INSPECTOR GENERAL.

Section 8I of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

''(f)(1) The Inspector General of the Department of Homeland Security shall designate a senior official within the Office of Inspector General, who shall be a career member of the civil service at the equivalent to the GS–15 level or a career member of the Senior Executive Service, to perform the functions described in paragraph (2).

''(2) The senior official designated under paragraph (1) shall—

''(A) coordinate the activities of the Office of Inspector General with respect to investigations of abuses of civil rights or civil liberties;

''(B) receive and review complaints and information from any source alleging abuses of civil rights and civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

''(C) initiate investigations of alleged abuses of civil rights or civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

''(D) ensure that personnel within the Office of Inspector General receive sufficient training to conduct effective civil rights and civil liberties investigations;

''(E) consult with the Officer for Civil Rights and Civil Liberties regarding—

''(i) alleged abuses of civil rights or civil liberties; and

''(ii) any policy recommendations regarding civil rights and civil liberties that may be founded upon an investigation by the Office of Inspector General;

''(F) provide the Officer for Civil Rights and Civil Liberties with information regarding the outcome of investigations of alleged abuses of civil rights and civil liberties;

''(G) refer civil rights and civil liberties matters that the Inspector General decides not to investigate to the Officer for Civil Rights and Civil Liberties;

''(H) ensure that the Office of the Inspector General publicizes and provides convenient public access to information regarding—

''(i) the procedure to file complaints or comments concerning civil rights and civil liberties matters; and

''(ii) the status of investigations initiated in response to public complaints; and

''(I) inform the Officer for Civil Rights and Civil Liberties of any weaknesses, problems, and deficiencies within the Department relating to civil rights or civil liberties.''.

SEC. 5. PRIVACY OFFICER.

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) in the matter preceding paragraph (1), by inserting '', who shall report directly to the Secretary,'' after ''in the Department'';

(2) in paragraph (4), by striking ''and'' at the end;

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

''(5) coordinating with the Officer for Civil Rights and Civil Liberties to ensure that—

''(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

''(B) Congress receives appropriate reports on such programs, policies, and procedures; and''.

Mr. WYDEN. Mr. President, the threat of terrorism is an unfortunate fact of life today, and it is not going to go away any time soon. Protecting American citizens against this threat will continue to be an essential and urgent task for the foreseeable future.

However, I do not believe that fighting terrorism aggressively requires tossing civil liberties protections into the scrap heap. This is not an ''either or'' choice. This country's tradition of high standards of civil rights and civil liberties should not and need not become the first casualty of the war on terrorism.

I have made this point repeatedly in the time since the terrorist attacks of 9/11. Still, all too often, we have seen well-meaning government agencies take the approach of designing a security system or program first, and worrying about the civil liberties and privacy implications later.

I am convinced that the approach of making civil liberties an afterthought doesn't work and isn't acceptable. Civil liberties and privacy considerations need to be built into the DNA of the Homeland Security Department and its various programs.

The legislation that created the Homeland Security Department included some very positive steps in that regard, by creating an Officer for Civil Rights and Civil Liberties and a Privacy Officer.

Today, I am joining Senator COLLINS in introducing new legislation to flesh out the role and stature of these key offices within the Department.

Specifically, the legislation would add a reference to civil liberties to the statutory mission statement of the Department of Homeland Security. It would provide further detail as to the duties of the Officer for Civil Rights and Civil Liberties. It would specify that both the Officer for Civil Rights and Civil Liberties and the Privacy Officer shall report directly to the Secretary. And it would direct the DHS Inspector General to designate a point person within the I.G. office to focus expressly on civil liberties matters.

None of these items represents a radical departure from the original Homeland Security legislation or the current practice of the department. Rather, this new bill codifies much of what is already going on, giving it a firm statutory basis.

I hope my colleagues will join Senator COLLINS and me in supporting this legislation, and in delivering a strong message that civil liberties matters remain a core factor in this country's homeland security efforts. I ask unanimous consent that the text of the bill be printed in the RECORD.

By Mr. LIEBERMAN (for himself and Mr. DODD):

S. 2538. A bill to provide a grant program to support the establishment and operation of Teachers Institutes; to the Committee on Health, Education, Labor, and Pensions.

Mr. LIEBERMAN. Mr. President, today I am introducing legislation, along with my colleague from Connecticut, Mr. DODD, that will strengthen the content and pedagogy knowledge of our present K–12 teacher workforce and thus ultimately raise student achievement.

My proposal would establish eight new Teacher Professional Development Institutes throughout the Nation each year over the next five years based on the model which has been operating at Yale University for over 25 years. Every Teacher Institute would consist of a partnership between an institution of higher education and the local public school system in which a significant proportion of the students come from low-income households. These Institutes will strengthen the present teacher workforce by giving each participant an opportunity to gain more sophisticated content knowledge and a chance to develop curriculum units with other colleagues that can be directly applied in their classrooms. We know that teachers gain confidence and enthusiasm when they have a deeper understanding of the subject matter that they teach and this translates into higher expectations for their students and thus, an increase in student achievement.

The Teacher Professional Development Institutes are based on the Yale-New Haven Teachers Institute model that has been in existence since 1978. For over 25 years, the Institute has offered six or seven thirteen-session seminars each year, led by Yale faculty, on topics that teachers have selected to enhance their mastery of the specific subject area that they teach. The subject selection process begins with representatives from the Institutes soliciting ideas from teachers throughout the school district for topics on which teachers feel they need to have additional preparation, topics that will assist them in preparing materials they need for their students, or topics that will assist them in addressing the standards that the school district requires. As a consensus emerges about desired seminar subjects, the Institute director identifies university faculty members with the appropriate expertise, interest and desire to lead the seminar. University faculty members, especially those who have led Institute seminars before, may sometimes suggest seminars they would like to lead, and these ideas are circulated by the representatives as well. The final decisions on which seminar topics are offered are ultimately made by the teachers who participate. In this way, the offerings are designed to respond to what teachers believe is needed and useful for both themselves and their students.

The cooperative nature of the Institute seminar planning process ensures its success: Institutes offer seminars and relevant materials on topics teachers have identified and feel are needed for their own preparation as well as what they know will motivate and engage their students. Teachers enthusiastically take part in rigorous seminars they have requested, and as part of the program, practice using the materials they have obtained and developed. This helps ensure that the experience not only increases their preparation in the subjects they are assigned to teach, but also their participation in an Institute seminar gives them immediate hands-on active learning materials that can be used in the classroom. In short, by allowing teachers to determine the seminar subjects and providing them the resources to develop relevant curricula for their classroom and their students, the Institutes empower teachers. Teachers know their students best and they know what should be done to improve schools and increase student learning. The Teacher Professional Development Institutes promote this philosophy.

From 1999–2002, the Yale-New Haven Teachers Institute launched a National

Demonstration Project to create comparable Institutes at four diverse sites with large concentrations of disadvantaged students. These demonstration projects are located in Pittsburgh, PA, Houston, TX, Albuquerque, NM, and Santa Ana, CA.

Follow-up evaluations have earned very positive results from the teacher participants in the Yale-New Haven Institute, as well as the four demonstration sites. The data strongly support the conclusion that virtually all teachers felt substantially strengthened in their mastery of content knowledge and they also developed increased expectations for what their students could achieve. In addition, because of their involvement in the course selection and curriculum development process, teacher participants have found these seminars to be especially relevant and useful in their classroom practices. Ninety-five percent of all participating teachers reported that the seminars were useful. These Institutes have also served to foster teacher leadership, to develop supportive teacher networks, to heighten university faculty commitments to improving K–12 public education, and to foster more positive partnerships between school districts and institutions of higher education.

By some studies, teacher quality is the single most important school-related factor in determining student achievement. In support of this, the No Child Left Behind Act requires a ''highly qualified'' teacher to be in every classroom by the end of 2005–2006. Effective teacher professional development programs that focus on subject and pedagogy knowledge are a proven method for enhancing the success of a teacher in the classroom and in helping them meet the highly qualified criteria.

Though a K–12 teacher shortage is forecast in the near-term and many new teachers will be entering our schools, those teachers who are presently on the job will do the majority of teaching in the classrooms in the very near future. For this reason, it is imperative to invest in methods to strengthen our present teaching workforce. Like many professions, the quality of our teachers could diminish if their professional development is neglected. Research has shown that positive educational achievements occur when coursework in a teachers' specific content area is combined with pedagogy techniques. This is what the Teacher Professional Development Institutes Act strives to accomplish.

The Yale-New Haven Institutes have already proven to be a successful model for teacher professional development as demonstrated by the high caliper curriculum unit plans that teacher participants have developed and placed on the web and by the evaluations that support the conclusion that virtually all the teacher participants felt substantially strengthened in their mastery of content knowledge and their teaching skills. My proposal would open this opportunity to many more urban teachers throughout the nation.

I urge my colleagues to act favorably on this measure. 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. 2538

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

SECTION 1. TEACHER PROFESSIONAL DEVELOPMENT INSTITUTES.

Title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.) is amended by adding at the end the following:

''PART C—TEACHER PROFESSIONAL DEVELOPMENT INSTITUTES

''SEC. 241. SHORT TITLE.

''This part may be cited as the 'Teacher Professional Development Institutes Act'.

''SEC. 242. FINDINGS AND PURPOSE.

''(a) FINDINGS.—Congress makes the following findings:

''(1) The ongoing professional development of teachers in the subjects the teachers teach is essential for improved student learning.

''(2) Attaining the goal of the No Child Left Behind Act of 2001, of having a teacher who is highly qualified in every core subject classroom, will require innovative and effective approaches to improving the quality of teaching.

''(3) The Teachers Institute Model is an innovative approach that encourages a collaboration between urban school teachers and university faculty. The Teachers Institute Model focuses on the continuing academic preparation of school teachers and the application of what the teachers study to their classrooms and potentially to the classrooms of other teachers.

''(4) The Teachers Institute Model has also been successfully demonstrated over a 3-year period in a National Demonstration Project (hereafter in this part referred to as the 'National Demonstration Project') in several cities.

''(b) PURPOSE.—The purpose of this part is to provide Federal assistance to support the establishment and operation of Teachers Institutes for local educational agencies that serve significant low-income populations in States throughout the Nation—

''(1) to improve student learning; and

''(2) to enhance the quality of teaching by strengthening the subject matter mastery of current teachers through continuing teacher preparation.

''SEC. 243. DEFINITIONS.

''In this part:

''(1) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.

''(2) SIGNIFICANT LOW-INCOME POPULATION.—The term 'significant low-income population' means a student population of which not less than 25 percent are from families with incomes below the poverty line.

''(3) STATE.—The term 'State' means each of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(4) TEACHERS INSTITUTE.—The term 'Teachers Institute' means a partnership or joint venture between or among 1 or more institutions of higher education, and 1 or more local educational agencies serving a significant low-income population, which partnership or joint venture—

''(A) is entered into for the purpose of improving the quality of teaching and learning through collaborative seminars designed to enhance both the subject matter and the pedagogical resources of the seminar participants; and

''(B) works in collaboration to determine the direction and content of the collaborative seminars.

''SEC. 244. GRANT AUTHORITY.

''(a) IN GENERAL.—The Secretary is authorized—

''(1) to award grants to Teachers Institutes to encourage the establishment and operation of Teachers Institutes; and

''(2) to provide technical assistance, either directly or through existing Teachers Institutes, to assist local educational agencies and institutions of higher education in preparing to establish and in operating Teachers Institutes.

''(b) SELECTION CRITERIA.—In selecting a Teachers Institute for a grant under this part, the Secretary shall consider—

''(1) the extent to which the proposed Teachers Institute will serve a community with a significant low-income population;

''(2) the extent to which the proposed Teachers Institute will follow the Understandings and Necessary Procedures that have been developed following the National Demonstration Project;

''(3) the extent to which the local educational agency participating in the proposed Teachers Institute has a high percentage of teachers who are unprepared or under prepared to teach the core academic subjects the teachers are assigned to teach; and

''(4) the extent to which the proposed Teachers Institute will receive a level of support from the community and other sources that will ensure the requisite long-term commitment for the success of a Teachers Institute.

''(c) CONSULTATION.—

''(1) IN GENERAL.—In evaluating applications under subsection (b), the Secretary may request the advice and assistance of existing Teachers Institutes.

''(2) STATE AGENCIES.—If the Secretary receives 2 or more applications for new Teachers Institutes that propose serving the same State, the Secretary shall consult with the State educational agency regarding the applications.

''(d) FISCAL AGENT.—For the purpose of this part, an institution of higher education participating in a Teachers Institute shall serve as the fiscal agent for the receipt of grant funds under this part.

''(e) LIMITATIONS.—A grant under this part—

''(1) shall be awarded for a period not to exceed 5 years; and

''(2) shall not exceed 50 percent of the total costs of the eligible activities, as determined by the Secretary.

''SEC. 245. ELIGIBLE ACTIVITIES.

''(a) IN GENERAL.—Grant funds awarded under this part may be used—

''(1) for the planning and development of applications for the establishment of Teachers Institutes;

''(2) to provide assistance to the Teachers Institutes established during the National Demonstration Project to enable the Teachers Institutes—

''(A) to develop further the Teachers Institutes; or

''(B) to support the planning and development of applications for new Teachers Institutes;

''(3) for the salary and necessary expenses of a full-time director to plan and manage the Teachers Institute and to act as liaison

between the local educational agency and the institution of higher education participating in the Teachers Institute;

''(4) to provide suitable office space, staff, equipment, and supplies, and to pay other operating expenses, for the Teachers Institute;

''(5) to provide a stipend for teachers participating in collaborative seminars in the sciences and humanities, and to provide remuneration for those members of the faculty of the institution of higher education participating in the Teachers Institute who lead the seminars; and

''(6) to provide for the dissemination through print and electronic means of curriculum units prepared in the seminars conducted by the Teachers Institute.

''(b) TECHNICAL ASSISTANCE.—The Secretary may use not more than 50 percent of the funds appropriated to carry out this part to provide technical assistance to facilitate the establishment and operation of Teachers Institutes. For the purpose of this subsection, the Secretary may contract with existing Teachers Institutes to provide all or a part of the technical assistance under this subsection.

''SEC. 246. APPLICATION, APPROVAL, AND AGREEMENT.

''(a) IN GENERAL.—To receive a grant under this part, a Teachers Institute shall submit an application to the Secretary that—

''(1) meets the requirement of this part and any regulations under this part;

''(2) includes a description of how the Teachers Institute intends to use funds provided under the grant;

''(3) includes such information as the Secretary may require to apply the criteria described in section 244(b);

''(4) includes measurable objectives for the use of the funds provided under the grant; and

''(5) contains such other information and assurances as the Secretary may require.

''(b) APPROVAL.—The Secretary shall—

''(1) promptly evaluate an application received for a grant under this part; and

''(2) notify the applicant within 90 days of the receipt of a completed application of the Secretary's approval or disapproval of the application.

''(c) AGREEMENT.—Upon approval of an application, the Secretary and the Teachers Institute shall enter into a comprehensive agreement covering the entire period of the grant.

''SEC. 247. REPORTS AND EVALUATIONS.

''(a) REPORT.—Each Teachers Institute receiving a grant under this part shall report annually on the progress of the Teachers Institute in achieving the purpose of this part and the purposes of the grant.

''(b) EVALUATION AND DISSEMINATION.—

''(1) EVALUATION.—The Secretary shall evaluate the activities funded under this part and submit an annual report regarding the activities to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.

''(2) DISSEMINATION.—The Secretary shall broadly disseminate successful practices developed by Teachers Institutes.

''(c) REVOCATION.—If the Secretary determines that a Teachers Institute is not making substantial progress in achieving the purpose of this part and the purposes of the grant by the end of the second year of the grant under this part, the Secretary may take appropriate action, including revocation of further payments under the grant, to ensure that the funds available under this part are used in the most effective manner.

''SEC. 248. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part—

''(1) $4,000,000 for fiscal year 2005;

''(2) $5,000,000 for fiscal year 2006;

''(3) $6,000,000 for fiscal year 2007;

''(4) $7,000,000 for fiscal year 2008; and

''(5) $8,000,000 for fiscal year 2009.''.

By Mr. CAMPBELL (for himself, Mr. INOUYE, Mr. DOMENICI, and Mr. SMITH):

S. 2539. A bill to amend the Tribally Controlled Colleges or University Assistance Act and the Higher Education Act to improve Tribal Colleges and Universities, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce legislation to update and improve the Tribally Controlled Colleges or University Assistance Act and amend the Indian sections of the Higher Education Act.

Indian tribal colleges were first created about 30 years ago in response to the higher education needs of Native populations living in remote and isolated areas of the country where access to higher education is extremely difficult.

There are 33 tribally- or Federally-chartered Indian colleges in the Nation and they do a superb job despite the many obstacles they face.

In recent years the cost of higher education has far exceeded the rate of inflation. Tribal colleges face other problems as well: a growing population and growing demand for services; increased demand for additional facilities; geographical isolation; and difficulty attracting quality professors to teach.

Tribal colleges not only provide a quality higher education but also enhance the cultural knowledge, knowledge depositories, college preparatory work, and other important educational needs of Indian communities.

Tribal colleges also enhance the economies of tribes. The national unemployment rate in the U.S. today is about 5.6 percent, while the rate for Native Americans is many times that and in some parts of Indian country hovers above 50 percent.

Tribal colleges serve as centers for business incubation and small business development in order to encourage private business development and job creation.

Tribal colleges are also being called on to help Indian communities in the often-difficult transition from welfare to work. These institutions also provide education and training to people ready to join the workforce.

To continue the vital work of these colleges, the bill I am introducing will provide additional resources and means to develop facilities, increase quality faculty and improve the overall education of Indian people within their reservations.

I urge my colleagues to join me in supporting this important bill.

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. 2539

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

TITLE I—TRIBAL COLLEGES AND UNIVERSITIES

SEC. 101. TRIBALLY CONTROLLED COLLEGE OR UNIVERSITY ACT OF 1978.

(a) FORMULA.—Section 108(a)(2) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1808) is amended by striking ''$6,000'' and inserting ''$8,000''.

(b) TITLE I REAUTHORIZATION.—Section 110(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1810(a)) is amended—

(1) in paragraphs (1), (2), (3), and (4), by striking ''1999'' and inserting ''2004'';

(2) in paragraphs (1), (2), and (3), by striking ''4 succeeding'' and inserting ''5 succeeding'';

(3) in paragraph (2), by striking ''$40,000,000'' and inserting ''$55,000,000'';

(4) in paragraph (3), by striking ''$10,000,000'' and inserting ''$20,000,000''; and

(5) in paragraph (4), by striking ''succeeding 4'' and inserting ''5 succeeding''.

(c) TITLE III REAUTHORIZATION.—Section 306(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1836(a)) is amended—

(1) by striking ''1999'' and inserting ''2004''; and

(2) by striking ''4 succeeding'' and inserting ''5 succeeding''.

(d) TITLE IV REAUTHORIZATION.—Section 403 of the Tribal Economic Development and Technology Related Education Assistance Act of 1990 (25 U.S.C. 1852) is amended—

(1) by striking ''$2,000,000 for fiscal year 1999'' and inserting ''$5,000,000 for fiscal year 2004''; and

(2) by striking ''4 succeeding'' and inserting ''5 succeeding''.

(e) CLARIFICATION OF THE DEFINITION OF NATIONAL INDIAN ORGANIZATION.—Section 2(a)(6) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)(6)) is amended by striking ''in the field of Indian education'' and inserting ''in the field of Tribal Colleges and Universities and Indian higher education''.

(f) INDIAN STUDENT COUNT.—Section 2(a) of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1801(a)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following:

''(7) 'Indian student' means a person who is—

''(A) a member of an Indian tribe; or

''(B) a biological child of a member of an Indian tribe, living or deceased;''.

(g) CONTINUING EDUCATION.—Section 2(b) of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1801(b)) is amended by striking paragraph (5) and inserting the following:

''(5) DETERMINATION OF CREDITS.—Eligible credits earned in a continuing education program—

''(A) shall be determined as 1 credit for every 10 contact hours in the case of an institution on a quarter system, or 15 contact hours in the case of an institution on a semester system, of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction, as described in the criteria established by the International Association for Continuing Education and Training; and

''(B) shall be limited to 10 percent of the Indian student count of a tribally controlled college or university.''.

(h) ACCREDITATION REQUIREMENT.—Section 103 of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1804) is amended—

(1) in paragraph (2), by striking ''and'' at the end;

(2) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (3), the following:

''(4)(A) is accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority with regard to the quality of training offered; or

''(B) is, according to such an agency or association, making reasonable progress toward accreditation.''.

(i) TECHNICAL ASSISTANCE CONTRACT AWARDS.—Section 105 of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1805) is amended in the second sentence by striking ''In the awarding of contracts for technical assistance, preference shall be given'' and inserting ''The Secretary shall direct that contracts for technical assistance be awarded''.

SEC. 102. TITLE III GRANTS FOR AMERICAN INDIAN TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.

(a) DEFINITION OF TRIBAL COLLEGE OR UNIVERSITY.—Section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)) is amended by striking paragraph (3) and inserting the following:

''(3) TRIBAL COLLEGE OR UNIVERSITY.—

''(A) IN GENERAL.—The term 'Tribal College or University' means an institution that meets the definition of tribally controlled college or university in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).

''(B) INCLUSIONS.—The term 'Tribal College or University' includes Bay Mills Community College; Blackfeet Community College; Cankdeska Cikana Community College; Chief Dull Knife College; College of Menominee Nation; Crownpoint Institute of Technology; Dine College; D–Q University; Fond Du Lac Tribal and Community College; Fort Belknap College; Fort Berthold Community College; Fort Peck Community College; Haskell Indian Nations University; Institute of American Indian and Alaska Native Culture and Arts Development; Lac Courte Oreilles Ojibwa Community College; Leech Lake Tribal College; Little Big Horn College; Little Priest Tribal College; Nebraska Indian Community College; Northwest Indian College; Oglala Lakota College; Saginaw Chippewa Tribal College; Salish Kootenai College; Si Tanka University-Eagle Butte Campus; Sinte Gleska University; Sisseton Wahpeton Community College; Sitting Bull College; Southwestern Indian Polytechnic Institute; Stone Child College; Tohono O'odham Community College; Turtle Mountain Community College; United Tribes Technical College; and White Earth Tribal and Community College.''.

(b) DISTANCE LEARNING.—Section 316(c)(2) of the Higher Education Act of 1965 (20 U.S.C. 1059c(c)(2)) is amended—

(1) in subparagraph (B), by inserting before the semicolon at the end the following: ''and the acquisition of real property adjacent to the campus of the institution on which to construct such facilities'';

(2) in subparagraph (K), by striking ''and'' at the end;

(3) by redesignating subparagraph (L) as subparagraph (M); and

(4) by inserting after subparagraph (K) the following:

''(L) developing or improving facilities for Internet use or other distance learning academic instruction capabilities; and''.

(c) APPLICATION, PLAN, AND ALLOCATION.—Section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c) is amended by striking subsection (d) and inserting the following:

''(d) APPLICATION, PLAN, AND ALLOCATION.—

''(1) INSTITUTIONAL ELIGIBILITY.—To be eligible to receive assistance under this section, a Tribal College or University shall be an eligible institution under section 312(b).

''(2) APPLICATION.—

''(A) IN GENERAL.—A Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, and in such manner, as the Secretary may reasonably require.

''(B) STREAMLINED PROCESS.—The Secretary shall establish application requirements in such a manner as to simplify and streamline the process for applying for grants.

''(3) ALLOCATIONS TO INSTITUTIONS.—

''(A) CONSTRUCTION GRANTS.—

''(i) IN GENERAL.—Of the amount appropriated to carry out this section for any fiscal year, the Secretary shall reserve 30 percent for the purpose of awarding 1-year grants of not less than $1,000,000 to address construction, maintenance, and renovation needs at eligible institutions.

''(ii) PREFERENCE.—In providing grants under clause (i), the Secretary shall give preference to eligible institutions that have not yet received an award under this section.

''(B) ALLOTMENT OF REMAINING FUNDS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall distribute the remaining funds appropriated for any fiscal year to each eligible institution as follows:

''(I) 60 percent of the remaining appropriated funds shall be distributed among the eligible Tribal Colleges and Universities pro rata basis, based on the respective Indian student counts (as defined in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)) of the Tribal Colleges and Universities; and

''(II) the remaining 40 percent shall be distributed in equal shares to eligible Tribal Colleges and Universities.

''(ii) MINIMUM GRANT.—The amount distributed to a Tribal College or University under clause (i) shall not be less than $500,000.

''(4) SPECIAL RULES.—

''(A) CONCURRENT FUNDING.—For the purposes of this part, no Tribal College or University that is eligible for and receives funds under this section shall concurrently receive funds under other provisions of this part or part B.

''(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.''.

SEC. 103. LOAN REPAYMENT OR CANCELLATION FOR INDIVIDUALS WHO TEACH IN TRIBAL COLLEGES OR UNIVERSITIES.

(a) PERKINS LOANS.—

(1) AMENDMENT.—Section 465(a) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)) is amended—

(A) in paragraph (2)—

(i) in subparagraph (H), by striking ''or'' at the end;

(ii) in subparagraph (I), by striking the period at the end and inserting ''; or''; and

(iii) by adding at the end the following:

''(J) as a full-time teacher at a Tribal College or University (as defined in section 316(b)).''; and

(B) in paragraph (3)(A)(i), by striking ''or (I)'' and inserting ''(I), or (J)''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall be effective for service performed during academic year 1998–1999 and succeeding academic years, notwithstanding any contrary provision of the promissory note under which a loan under part E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087aa et seq.) was made.

(b) FFEL AND DIRECT LOANS.—Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by adding at the end the following:

''SEC. 493. LOAN REPAYMENT OR CANCELLATION FOR INDIVIDUALS WHO TEACH IN TRIBAL COLLEGES OR UNIVERSITIES.

''(a) DEFINITION OF YEAR.—In this section, the term 'year', as applied to employment as a teacher, means an academic year (as defined by the Secretary).

''(b) PROGRAM.—The Secretary shall carry out a program, through the holder of a loan, of assuming or canceling the obligation to repay a qualified loan amount, in accordance with subsection (c), for any new borrower on or after the date of enactment of this section, who—

''(1) has been employed as a full-time teacher at a Tribal College or University (as defined in section 316(b)); and

''(2) is not in default on a loan for which the borrower seeks repayment or cancellation.

''(c) QUALIFIED LOAN AMOUNTS.—

''(1) PERCENTAGES.—Subject to paragraph (2), the Secretary shall assume or cancel the obligation to repay under this section—

''(A) 15 percent of the amount of all loans made, insured, or guaranteed after the date of enactment of this section to a student under part B or D, for the first or second year of employment described in subsection (b)(1);

''(B) 20 percent of such total amount, for the third or fourth year of such employment; and

''(C) 30 percent of such total amount, for the fifth year of such employment.

''(2) MAXIMUM.—The Secretary shall not repay or cancel under this section more than $15,000 in the aggregate of loans made, insured, or guaranteed under parts B and D for any student.

''(3) TREATMENT OF CONSOLIDATION LOANS.—A loan amount for a loan made under section 428C may be a qualified loan amount for the purposes of this subsection only to the extent that the loan amount was used to repay a loan made, insured, or guaranteed under part B or D for a borrower who meets the requirements of subsection (b), as determined in accordance with regulations promulgated by the Secretary.

''(d) REGULATIONS.—The Secretary may promulgate such regulations as are necessary to carry out this section.

''(e) EFFECT OF SECTION.—Nothing in this section authorizes any refunding of any repayment of a loan.

''(f) PREVENTION OF DOUBLE BENEFITS.—No borrower may, for the same service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).''.

(c) AMOUNTS FORGIVEN NOT TREATED AS GROSS INCOME.—Rules similar to the rules under section 108(f) of the Internal Revenue Code of 1986 shall apply to the amount of any loan that is assumed or canceled under this section.

TITLE II—NAVAJO HIGHER EDUCATION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Navajo Nation Higher Education Act of 2004''.

SEC. 202. CONGRESSIONAL FINDINGS.

Congress finds that—

(1) the Treaty of 1868 between the United States of America and the Navajo Tribe of Indians (15 Stat. 667) provides for the education of the citizens of the Navajo Nation;

(2) in 1998, the Navajo Nation created and chartered the Navajo Community College by Resolution CN–95–68 as a wholly owned educational entity of the Navajo Nation;

(3) in 1971, Congress enacted the Navajo Community College Act (25 U.S.C. 640a et seq.);

(4) in 1997, the Navajo Nation officially changed the name of the Navajo Community College to Dinè College by Resolution CAP–35–97;

(5) the purpose of Dinè College is to provide educational opportunities to the Navajo people and others in areas important to the economic and social development of the Navajo Nation;

(6) the mission of Dinè College is to apply the principles of Sa'ah Naaghì Bik'eh Hòzhòòn (Dinè Philosophy) to advance student learning through training of the mind and heart—

(A) through Nitshkees (Thinking), Nahat (Planning), Iin (Living), and Sihasin (Assurance);

(B) in study of the Dinè language, history, philosophy, and culture;

(C) in preparation for further studies and employment in a multicultural and technological world; and

(D) in fostering social responsibility, community service, and scholarly research that contribute to the social, economic, and cultural well-being of the Navajo Nation;

(7) the United States has a trust and treaty responsibility to the Navajo Nation to provide for the educational opportunities for Navajo people;

(8) significant portions of the infrastructure of the College are dilapidated and pose a serious health and safety risk to students, employees and the public; and

(9) the purposes and intent of this Act—

(A) are consistent with—

(i) Executive Order 13270 (3 C.F.R. 242 (2002); relating to tribal colleges and universities)); and

(ii) Executive Order 13336 (69 Fed. Reg. 25295; relating to American Indian and Alaska Native education), issued on April 30, 2004; and

(B) fulfill the responsibility of the United States to serve the education needs of the Navajo people.

SEC. 203. DEFINITIONS.

In this title:

(1) COLLEGE.—The term ''College'' means Dinè College.

(2) COSTS OF OPERATION AND MAINTENANCE.—The term ''operation and maintenance'' means all costs and expenses associated with the customary daily operation of the College and necessary maintenance costs.

(3) INFRASTRUCTURE.—

(A) IN GENERAL.—The term ''infrastructure'' means College buildings, water and sewer facilities, roads, foundation, information technology, and telecommunications.

(B) INCLUSIONS.—The term ''infrastructure'' includes—

(i) classrooms; and

(ii) external structures, such as walkways.

(4) NATION.—The term ''Nation'' means the Navajo Nation.

(5) RENOVATIONS AND REPAIRS.—The term ''renovations and repairs'' means modernization and improvements to the infrastructure.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 204. REAUTHORIZATION OF DINÈ COLLEGE.

Congress authorizes the College to receive all Federal funding and resources under this Act and other laws for the operation, improvement, and growth of the College, including—

(1) provision of programs of higher education for citizens of the Nation and others;

(2) provision of vocational and technical education for citizens of the Nation and others;

(3) preservation and protection of the Navajo language, philosophy, and culture for citizens of the Nation and others;

(4) provision of employment and training opportunities to Navajo communities and people;

(5) provision of economic development and community outreach for Navajo communities and people; and

(6) provision of a safe learning, working, and living environment for students, employees, and the public.

SEC. 205. FACILITIES AND CAPITAL PROJECTS.

The College may expend money received under section 209(c) to undertake all renovations and repairs to the infrastructure of the College, as identified by a strategic plan approved by the College and submitted to the Secretary.

SEC. 206. STATUS OF FUNDS.

Funds provided to the College under this title may be treated as non-Federal, private funds of the College for purposes of any provision of Federal law that requires that non-Federal or private funds of the College be used in a project for a specific purpose.

SEC. 207. SURVEY, STUDY, AND REPORT.

(a) REPORT.—The Secretary shall—

(1) conduct a detailed study of all capital projects and facility needs of the College; and

(2) submit to Congress a report that —

(A) describes the results of the study not later than October 31, 2009; and

(B) includes detailed recommendations of the Secretary and any recommendations or views submitted by the College and the Nation.

(b) ADMINISTRATIVE EXPENSES.—Funds to carry out this section may be drawn from general administrative appropriations to the Secretary.

SEC. 208. CONTINUING ELIGIBILITY FOR OTHER FEDERAL FUNDS.

Except as explicitly provided for in other Federal law, nothing in this Act precludes the eligibility of the College to received Federal funding and resources under any program authorized under—

(1) the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.); and

(2) the Equity in Educational Land Grant Status Act (Title V, Part C, of Public Law 103–382; 7 U.S.C. 301 note); or

(3) any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such amounts as are necessary to pay the costs of operation and maintenance.

(b) BUDGET PLACEMENT.—The Secretary shall fund the costs of operation and maintenance of the College separately from tribal colleges and universities recognized and funded by the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(c) FACILITIES AND CAPITAL PROJECTS.—

(1) IN GENERAL.—In addition to amounts made available under subsection (a), there are authorized to be appropriated to carry out section 205 $15,000,000 for each of fiscal years 2005 through 2009.

(2) AGENCIES.—Amounts made available under paragraph (1) may be funded through any 1 or more of—

(A) the Department of the Interior;

(B) the Department of Education;

(C) the Department of Heath and Human Services;

(D) the Department of Housing and Urban Development;

(E) the Department of Commerce;

(F) the Environmental Protection Agency;

(G) the Department of Veterans Affairs;

(H) the Department of Agriculture;

(I) the Department of Homeland Security;

(J) the Department of Defense;

(K) the Department of Labor; and

(L) the Department of Transportation.

SEC. 210. REPEAL OF NAVAJO COMMUNITY COLLEGE ACT.

This Act supersedes the Navajo Community College Act (25 U.S.C. 640a et seq.).

By Ms. CANTWELL:

S. 2540. A bill to protect educational FM radio stations providing public service broadcasting from commercial encroachment; to the Committee on Commerce, Science, and Transportation.

Ms. CANTWELL. Mr. President, I stand today to offer a bill to protect educational radio stations.

Broadcaster Linda Ellerbee has compared radio to a national campfire: a place where a variety of voices bring us stories, news, opinion, culture and entertainment. But it seems these days that those representing the biggest business interests have the best seats at that campfire.

Current regulations allow commercial broadcasters to move into the spaces of some, lower-powered educational stations.

Last year the FCC ordered an educational station at a high school in Pennsylvania to be closed because a commercial broadcaster wanted to move into that space. That high school station had been serving the students and the community in Havertown, PA for fifty years. But no more. The high school station's voice was silenced. And that same FCC order also closed a radio station operated by a school district in Princeton, NJ. Both stations lost their licenses so a commercial broadcaster could get a frequency closer to the very profitable radio market in Philadelphia.

In my State of Washington, a high school station that has served a Seattle community for 35 years is now threatened with closure. That's because a commercial broadcaster located in another State wants to relocate to a larger city to increase its profits at the expense of the students of Mercer Island High School and the community the station serves. And in this case, the school's station also serves an important tool in the lives of those working in the local music community. The station focuses on introducing new and local bands to the airways. These artists are frequently later picked up for airplay by other radio stations. Few stations across the U.S. perform this role in the music industry. No other station serves this role so well in the Seattle music community.

If the FCC allows this move, it could be worth millions to the commercial broadcasters. But what is the cost to the local community when this voice is silenced? What is the educational cost to the students at this high school? What benefits and experiences will they be losing in the future?

This is a classic example of commercial interests trumping the public service interest in preserving local educational broadcasters. These small public service stations usually don't have

anyone to stand up for them. Since the 1970's, we have seen more than a hundred of these stations disappear, to be replaced by larger, often national broadcasters, with little if any connection to the local community.

The examples I've given you here today are not the only ones. Radio stations run by universities in Pittsburgh and North Carolina are also vulnerable to similar attempts.

This is why I am introducing the Educational Radio Protection Act.

My legislation is very simple: educational stations that are able to meet certain qualifying standards, similar to the requirements for primary, Class A, stations on FM radio, will be given the same protected status that these primary stations receive.

This is an important measure to protect community broadcasters. And the bottom line is that commercial broadcasters won't be able to bump these educational stations off the radio dial.

I thank you for the time today to discuss an issue that really is a cornerstone of democracy. For only in a democracy are the voices of the many heard to bring about a functioning government. I urge my colleagues to support this bill, and yield the floor.

By Mr. MCCAIN (for himself, Mr. BROWNBACK, Mrs. HUTCHISON, and Mr. ALLEN):

S. 2541. A bill to reauthorize and restructure the National Aeronautics and Space Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am pleased to be joined today by Senators BROWNBACK, HUTCHISON, and ALLEN in introducing legislation to re-authorize the National Aeronautics and Space Administration. This legislation marks the beginning of a new age of exploration, and the extension of humanity's quest for knowledge to a manned mission to Mars.

NASA is currently responsible for a number of programs that create greater knowledge about the Earth and the universe around us. As we speak today, the two robots, *Spirit* and *Opportunity*, are exploring craters on Mars in search of ancient lake beds. The Hubble telescope continues to show us new discoveries about the universe. NASA satellites also help us to develop a better scientific understanding of the Earth's atmosphere and its response to natural and human-induced changes. NASA is in the process of developing airplanes with morphing wings that will change shape during flight.

Despite all of these wondrous achievements, NASA is an agency in search of a new mission. For many Americans, the Apollo landings remain a moment of inspiration, but also a fading memory of the past. Many space enthusiasts have complained that the manned space program has been stuck in low Earth orbit and harnessed to a costly space station and aging Space Shuttle infrastructure. Just last year, we again witnessed the inherent danger in manned spaceflight, and some questioned the need for such a risky and expensive program.

To his credit, President Bush announced on the day of the *Columbia* tragedy that ''our journey into space will go on.'' In January, the President offered a bold new space vision and made a firm commitment to return the Space Shuttle to flight, finish construction of the International Space Station, and return astronauts to the Moon in preparation for a manned mission to Mars. This bill would authorize these activities consistent with the President's overall requested budget amounts, and set the nation firmly on a course for manned exploration beyond low Earth orbit.

However, we also have learned from the mistakes of the past. Unfortunately, NASA's recent history of managing projects, such as the X–33 and X–34, has been full of disappointment and failure. Many Members have seen the wisdom of President Reagan's adage to ''trust, but verify,'' when analyzing NASA's budget numbers. With these lessons in mind, the bill contains a number of provisions to ensure that NASA stays on track.

The bill would require the submission of a baseline technical requirements document and life cycle cost estimate, so that Congress can find out exactly what is required to implement the President's vision and begin to determine its cost. The bill also would require an industrial assessment of the private sector's ability to support manned missions to the Moon and Mars, and a commercialization plan to identify opportunities for the private sector to participate in future missions. Most importantly, the bill would require quarterly life cycle reports on major systems of the new initiative, and include cost-control measures when the cost overruns of these systems exceed 15 percent and 25 percent over the total life cycle cost of the system.

The bill also would codify many of the recommendations of the Columbia Accident Investigation Board (CAIB). Admiral Gehman and the other board members did an admirable job in thoroughly investigating the causes of this tragic accident. The bill would establish a lessons-learned and best practices program to ensure that NASA does not repeat the mistakes of the past. In addition, the Office of Safety and Mission Assurance is given independent funding and direct line authority over the entire Space Shuttle Safety organization. An Independent Technical Engineering Authority is established within NASA with its own budgetary line to maintain technical standards, be the sole waiver-granting authority for technical standards, and perform other tasks. The bill also would ensure that the Independent Technical Engineering Authority would recertify the Space Shuttle orbiters for operation prior to any operations beyond 2010. The bill would include an assessment of NASA's culture and organization, and an action plan to fix the cultural and organizational problems that the CAIB identified as a major cause of the accident. The men and women of the *Columbia* gave their lives to further America's knowledge of the Earth and the stars, and we should honor their memory by ensuring that such an accident never occurs again.

In addition, the bill would address the problems concerning the Hubble Space Telescope. As my colleagues know, NASA has indicated that it cannot use the Space Shuttle for another human mission to service this national treasure. Both NASA and the National Academy of Sciences are reviewing options for using robots and other means to save the telescope. Sixty days after the National Academy releases its report, the Administrator would be directed to report to Congress on the future servicing options for Hubble and how much it will cost.

I realize that concerns have been raised regarding some of the cuts that NASA is proposing to pay for the President's exploration vision. In order to pay for this new program, we must realize that there is limited funding and that NASA funding has to be re-allocated. However, this bill should not be construed as supporting each and every proposed reduction. Instead, the bill simply would authorize the funding levels buy the major budget accounts.

Curiosity and a drive to explore have always been quintessential American traits. This has been most evident in the space program, which continues to show great advances in human knowledge. However, we are fully aware of the inherent risks and costs of space exploration, and the need to mitigate them wherever possible. Based on this knowledge, let us now embark upon this great journey into the stars to find whatever may await us.

I urge my colleagues to support this legislation, and look forward to working with them to ensure passage of this bill this year.

By Mr. KENNEDY (for himself and Mr. EDWARDS):

S. 2542. A bill to provide for review of determinations on whether schools and local educational agencies made adequate yearly progress for the 2002–2003 school year taking into consideration subsequent regulations and guidance applicable to those determinations, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it's a privilege to join my colleagues in introducing the No Child Left Behind Fairness Act. Our goal is to achieve accurate and fair determinations of accountability in current law. The bill does not change the accountability provisions of the law, but it does require the Department of Education to play by its own rules in considering the progress of each school.

The accountability provisions in the No Child Left Behind Act are critical to accomplishing the goal of closing the achievement gap. Before its enactment, many communities ignored the gaps between some children and others in school, even though some groups of students were consistently falling behind. Communities are now beginning to provide the help those schools need to meet higher standards for all students, such as better teacher training, better curriculums, and better support and attention.

It makes sense to identify schools as needing improvement. There's nothing wrong with shining a light on areas that need improvement—even in the best schools. That doesn't mean they are failures.

But for the accountability provisions in the law to be useful, they must be accurate. We need accurate determinations of whether schools are making progress.

A full two years after passage of the No Child Left Behind Act, the Department of Education finally issued the regulations and guidance that schools need to accurately calculate accountability under the law. Those rules were a step in the right direction. They specifically addressed the achievement of children with disabilities and limited English proficient children.

The Department's rules were effective immediately, but many schools had already made their evaluations for the year as best they could. They shouldn't have had to make these assessments and calculations without adequate guidance. They certainly shouldn't be penalized for the Department's delay in issuing this guidance.

So far, 28,000 schools have been identified by States as failing to make adequate yearly progress. Many of those schools were identified in the 2002–2003 school year, before the new rule were released. A number of schools and districts identified as failing to make adequate yearly progress might have succeeded if the new rules had been in effect from the start. The Department's delay in issuing adequate rules and guidance has created unnecessary confusion, caused a potential mislabeling of schools, and misdirected resources from the schools and students who actually need them.

Some States have asked the Department of Education for permission to review their scores from last year under the new rules, and submit a more accurate calculation of accountability. Many of us in Congress have urged the Secretary of Education to apply the new regulations retroactively, so that States, school districts, and schools can review last year's data

On accountability and correct it if necessary. The Secretary of Education has refused, stating that he lacks the authority to do so.

This bill provides that authority. It enables the new regulations to be applied retroactively, so that schools will be judged on the same standards for the past year as they will be in the future, not by different criteria for different years.

Schools across the country are struggling to comply with the requirements of the No Child Left Behind Act. If we want schools to be held accountable, we need to make the process fair. I urge my colleagues to pass this legislation s soon as possible. Schools are waiting for our response. They don't deserve an unfair burden in complying with the act and improving their schools.

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

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

S. 2542

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 ''No Child Left Behind Fairness Act of 2004''.

SEC. 2. REVIEW OF ADEQUATE YEARLY PROGRESS DETERMINATIONS FOR SCHOOLS FOR THE 2002–2003 SCHOOL YEAR.

(a) IN GENERAL.—The Secretary shall require each local educational agency to provide each school served by the agency with an opportunity to request a review of a determination by the agency that the school did not make adequate yearly progress for the 2002–2003 school year.

(b) FINAL DETERMINATION.—Not later than 30 days after receipt of a request by a school for a review under this section, a local educational agency shall issue and make publicly available a final determination on whether the school made adequate yearly progress for the 2002–2003 school year.

(c) EVIDENCE.—In conducting a review under this section, a local educational agency shall—

(1) allow the principal of the school involved to submit evidence on whether the school made adequate yearly progress for the 2002–2003 school year; and

(2) consider that evidence before making a final determination under subsection (b).

(d) STANDARD OF REVIEW.—In conducting a review under this section, a local educational agency shall revise, consistent with the applicable State plan under section 1111 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311), the local educational agency's original determination that a school did not make adequate yearly progress for the 2002–2003 school year if the agency finds that the school made such progress taking into consideration—

(1) the amendments made to part 200 of title 34 of the Code of Federal Regulations on December 9, 2003 (68 Fed. Reg. 68698) (relating to accountability for the academic achievement of students with the most significant cognitive disabilities); or

(2) any regulation or guidance that, subsequent to the date of such original determination, was issued by the Secretary relating to—

(A) the assessment of limited English proficient children;

(B) the inclusion of limited English proficient children as part of the subgroup described in section 1111(b)(2)(C)(v)(II)(dd) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)(v)(II)(dd)) after such children have obtained English proficiency; or

(C) any requirement under section 1111(b)(2)(I)(ii) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(I)(ii)).

(e) EFFECT OF REVISED DETERMINATION.—

(1) IN GENERAL.—If pursuant to a review under this section a local educational agency determines that a school made adequate yearly progress for the 2002–2003 school year, upon such determination—

(A) any action by the Secretary, the State educational agency, or the local educational agency that was taken because of a prior determination that the school did not make such progress shall be terminated; and

(B) any obligations or actions required of the local educational agency or the school because of the prior determination shall cease to be required.

(2) EXCEPTIONS.—Notwithstanding paragraph (1), a determination under this section shall not affect any obligation or action required of a local educational agency or school under the following:

(A) Section 1116(b)(13) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)(13)) (requiring a local educational agency to continue to permit a child who transferred to another school under such section to remain in that school until completion of the highest grade in the school).

(B) Section 1116(e)(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(e)(8)) (requiring a local educational agency to continue to provide supplemental educational services under such section until the end of the school year).

(3) SUBSEQUENT DETERMINATIONS.—In determining whether a school is subject to school improvement, corrective action, or restructuring as a result of not making adequate yearly progress, the Secretary, a State educational agency, or a local educational agency may not take into account a determination that the school did not make adequate yearly progress for the 2002–2003 school year if such determination was revised under this section and the school received a final determination of having made adequate yearly progress for the 2002–2003 school year.

(f) NOTIFICATION.—The Secretary—

(1) shall require each State educational agency to notify each school served by the agency of the school's ability to request a review under this section; and

(2) not later than 30 days after the date of the enactment of this section, shall notify the public by means of the Department of Education's website of the review process established under this section.

SEC. 3. REVIEW OF ADEQUATE YEARLY PROGRESS DETERMINATIONS FOR LOCAL EDUCATIONAL AGENCIES FOR THE 2002–2003 SCHOOL YEAR.

(a) IN GENERAL.—The Secretary shall require each State educational agency to provide each local educational agency in the State with an opportunity to request a review of a determination by the State educational agency that the local educational agency did not make adequate yearly progress for the 2002–2003 school year.

(b) APPLICATION OF CERTAIN PROVISIONS.—Except as inconsistent with, or inapplicable to, this section, the provisions of section 2 shall apply to review by a State educational agency of a determination described in subsection (a) in the same manner and to the same extent as such provisions apply to review by a local educational agency of a determination described in section 2(a).

SEC. 4. DEFINITIONS.

In this Act:

(1) The term ''adequate yearly progress'' has the meaning given to that term in section 1111(b)(2)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(2)(C)).

(2) The term ''local educational agency'' means a local educational agency (as that

term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) receiving funds under part A of title I of such Act (20 U.S.C. 6311 et seq.).

(3) The term ''Secretary'' means the Secretary of Education.

(4) The term ''school'' means an elementary school or a secondary school (as those terms are defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) served under part A of title I of such Act (20 U.S.C. 6311 et seq.).

(5) The term ''State educational agency'' means a State educational agency (as that term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) receiving funds under part A of title I of such Act (20 U.S.C. 6311 et seq.).

By Mr. THOMAS (for himself and Mr. BURNS):

S. 2543. A bill to establish a program and criteria for National Heritage Areas in the United States, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. THOMAS: Mr. President, I rise today to introduce the ''National Heritage Partnership Act.'' The first Heritage area was created on August 24, 1984—the Illinois and Michigan National Heritage Corridor. Little or no growth occurred in this program for the first 10 years. However, in the last couple of years the Congress has added 23 more Heritage areas!

The Park Service provides technical assistance and funding but Heritage areas are not National Parks. About 30 bills have been introduced this Congress to study or designate new areas. There are no Federal guidelines requiring what a heritage bill must contain, the program has very little requirements and it is out of control.

As a result, I have conducted two oversight hearings in the National Parks Subcommittee. I also had the General Accounting Office conduct a review of Heritage Areas. The following concerns were identified: individual areas are designated with specific legislation, but a National Heritage Area Program does not exist in the National Park Service; there are no official standards or criteria; existing heritage areas range in scope and size from ''Rivers of Steel'' in Pennsylvania to the entire State of Tennessee; the potential exists for unlimited designations which are impacting funding for other Park Service programs; and oversight and accountability of funding is lacking.

Today, I am introducing legislation with the Chairman of the Interior Appropriations Subcommittee which will establish National Heritage Area guidelines and criteria. The bill considers the recommendations from the GAO report about Heritage Areas and raises the standard for designation and requires specific criteria for national significance before an area can be designated. In addition, a cap has been placed on annual funding for the Heritage Area Program to avoid impacting other National Park Service programs.

This program is out of control. We are continuing to put unnecessary fiscal and resource demands on the Park Service. We have no established criteria to ensure the recognition of truly nationally significant areas. Consequently, we have compromised the integrity of all existing and future National Heritage Areas. I am pleased Senator BURNS has joined me in this effort and I look forward to moving this bill through the Senate in the near future.

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. 2543

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''National Heritage Partnership Act''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) LOCAL COORDINATING ENTITY.—The term ''local coordinating entity'' means the entity designated by Congress—

(A) to develop, in partnership with others, the management plan for a National Heritage Area; and

(B) to act as a catalyst for the implementation of projects and programs among diverse partners in the National Heritage Area.

(2) MANAGEMENT PLAN.—The term ''management plan'' means the plan prepared by the local coordinating entity for a National Heritage Area designated by Congress that specifies actions, policies, strategies, performance goals, and recommendations to meet the goals of the National Heritage Area, in accordance with section 5.

(3) NATIONAL HERITAGE AREA.—The term ''National Heritage Area'' means an area designated by Congress that is nationally significant to the heritage of the United States and meets the criteria established under section 4(a).

(4) NATIONAL SIGNIFICANCE.—The term ''national significance'' means possession of—

(A) unique natural, historical, cultural, educational, scenic, or recreational resources of exceptional value or quality; and

(B) a high degree of integrity of location, setting, or association in illustrating or interpreting the heritage of the United States.

(5) PROGRAM.—The term ''program'' means the National Heritage Areas program established under section 3(a).

(6) PROPOSED NATIONAL HERITAGE AREA.—The term ''proposed National Heritage Area'' means an area under study by the Secretary or other parties for potential designation by Congress as a National Heritage Area.

(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(8) SUITABILITY-FEASIBILITY STUDY.—The term ''suitability-feasibility study'' means a study conducted by the Secretary, or conducted by 1 or more other interested parties and reviewed by the Secretary, in accordance with the criteria and processes established under section 4, to determine whether an area meets the criteria to be designated as a National Heritage Area by Congress.

SEC. 3. NATIONAL HERITAGE AREAS PROGRAM.

(a) IN GENERAL.—Subject to the availability of funds, the Secretary shall establish a National Heritage Areas program under which the Secretary shall provide technical and financial assistance to local coordinating entities to support the establishment of National Heritage Areas.

(b) DUTIES.—Under the program, the Secretary shall—

(1)(A) conduct suitability-feasibility studies, as directed by Congress, to assess the suitability and feasibility of designating proposed National Heritage Areas; or

(B) review and comment on suitability-feasibility studies undertaken by other parties to make such assessment;

(2) provide technical assistance, on a reimbursable or non-reimbursable basis (as determined by the Secretary), for the development and implementation of management plans for designated National Heritage Areas;

(3) enter into cooperative agreements with interested parties to carry out this Act;

(4) provide information, promote understanding, and encourage research on National Heritage Areas in partnership with local coordinating entities;

(5) provide national oversight, analysis, coordination, and technical assistance and support to ensure consistency and accountability under the program; and

(6) submit annually to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the allocation and expenditure of funds for activities conducted with respect to National Heritage Areas under this Act.

SEC. 4. SUITABILITY-FEASIBILITY STUDIES.

(a) CRITERIA.—In conducting or reviewing a suitability-feasibility study, the Secretary shall apply the following criteria to determine the suitability and feasibility of designating a proposed National Heritage Area:

(1) An area—

(A) has an assemblage of natural, historic, cultural, educational, scenic, or recreational resources that together are nationally significant to the heritage of the United States;

(B) represents distinctive aspects of the heritage of the United States worthy of recognition, conservation, interpretation, and continuing use;

(C) is best managed as such an assemblage through partnerships among public and private entities at the local or regional level;

(D) reflects traditions, customs, beliefs, and folklife that are a valuable part of the heritage of the United States;

(E) provides outstanding opportunities to conserve natural, historical, cultural, or scenic features;

(F) provides outstanding recreational or educational opportunities; and

(G) has resources and traditional uses that have national significance.

(2) Residents, business interests, nonprofit organizations, and governments (including relevant Federal land management agencies) within the proposed area are involved in the planning and have demonstrated significant support through letters and other means for National Heritage Area designation and management.

(3) The local coordinating entity responsible for preparing and implementing the management plan is identified.

(4) The proposed local coordinating entity and units of government supporting the designation are willing and have documented a

significant commitment to work in partnership to protect, enhance, interpret, fund, manage, and develop resources within the National Heritage Area.

(5) The proposed local coordinating entity has developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government) in the management of the National Heritage Area.

(6) The proposal is consistent with continued economic activity within the area.

(7) A conceptual boundary map has been developed and is supported by the public and participating Federal agencies.

(b) CONSULTATION.—In conducting or reviewing a suitability-feasibility study, the Secretary shall consult with the managers of any Federal land within the proposed National Heritage Area and secure the concurrence of the managers with the findings of the suitability-feasibility study before making a determination for designation.

(c) TRANSMITTAL.—On completion or receipt of a suitability-feasibility study for a National Heritage Area, the Secretary shall—

(1) review, comment, and make findings (in accordance with the criteria specified in subsection (a)) on the feasibility of designating the National Heritage Area;

(2) consult with the Governor of each State in which the proposed National Heritage Area is located; and

(3) transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, the suitability-feasibility study, including—

(A) any comments received from the Governor of each State in which the proposed National Heritage Area is located; and

(B) a finding as to whether the proposed National Heritage Area meets the criteria for designation.

(d) DISAPPROVAL.—

(1) IN GENERAL.—If the Secretary determines that any proposed National Heritage Area does not meet the criteria for designation, the Secretary shall include within the suitability-feasibility study submitted under subsection (c)(3) a description of the reasons for the determination.

(2) OTHER FACTORS.—A finding by the Secretary that a proposed National Heritage Area meets the criteria for designation shall not preclude the Secretary from recommending against designation of the proposed National Heritage Area based on the budgetary impact of the designation or any other factor unrelated to the criteria.

(e) DESIGNATION.—The designation of a National Heritage Area shall be—

(1) by Act of Congress; and

(2) contingent on the prior completion of a suitability-feasibility study and an affirmative determination by the Secretary that the area meets the criteria established under subsection (a).

SEC. 5. MANAGEMENT PLANS.

(a) REQUIREMENTS.—The management plan for any National Heritage Area shall—

(1) describe comprehensive policies, goals, strategies, and recommendations for telling the story of the heritage of the area covered by the National Heritage Area and encouraging long-term resource protection, enhancement, interpretation, funding, management, and development of the National Heritage Area;

(2) include a description of actions and commitments that governments, private organizations, and citizens will take to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(3) specify existing and potential sources of funding or economic development strategies to protect, enhance, interpret, fund, manage, and develop the National Heritage Area;

(4) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area related to the national significance and themes of the National Heritage Area that should be protected, enhanced, interpreted, managed, funded, and developed;

(5) recommend policies and strategies for resource management, including the development of intergovernmental and interagency agreements to protect, enhance, interpret, fund, manage, and develop the natural, historical, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(6) describe a program for implementation for the management plan, including—

(A) performance goals;

(B) plans for resource protection, enhancement, interpretation, funding, management, and development; and

(C) specific commitments for implementation that have been made by the local coordinating entity or any government agency, organization, business, or individual;

(7) include an analysis of, and recommendations for, means by which Federal, State, and local programs may best be coordinated (including the role of the National Park Service and other Federal agencies associated with the National Heritage Area) to further the purposes of this Act; and

(8) include a business plan that—

(A) describes the role, operation, financing, and functions of the local coordinating entity and of each of the major activities contained in the management plan; and

(B) provides adequate assurances that the local coordinating entity has the partnerships and financial and other resources necessary to implement the management plan for the National Heritage Area.

(b) DEADLINE.—

(1) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to develop the management plan after designation as a National Heritage Area, the local coordinating entity shall submit the management plan to the Secretary for approval.

(2) TERMINATION OF FUNDING.—If the management plan is not submitted to the Secretary in accordance with paragraph (1), the local coordinating entity shall not qualify for any additional financial assistance under this Act until such time as the management plan is submitted to and approved by the Secretary.

(c) APPROVAL OF MANAGEMENT PLAN.—

(1) REVIEW.—Not later than 180 days after receiving the plan, the Secretary shall review and approve or disapprove the management plan for a National Heritage Area on the basis of the criteria established under paragraph (3).

(2) CONSULTATION.—The Secretary shall consult with the Governor of each State in which the National Heritage Area is located before approving a management plan for the National Heritage Area.

(3) CRITERIA FOR APPROVAL.—In determining whether to approve a management plan for a National Heritage Area, the Secretary shall consider whether—

(A) the local coordinating entity represents the diverse interests of the National Heritage Area, including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners;

(B) the local coordinating entity—

(i) has afforded adequate opportunity for public and governmental involvement (including through workshops and hearings) in the preparation of the management plan; and

(ii) provides for at least semiannual public meetings to ensure adequate implementation of the management plan;

(C) the resource protection, enhancement, interpretation, funding, management, and development strategies described in the management plan, if implemented, would adequately protect, enhance, interpret, fund, manage, and develop the natural, historic, cultural, educational, scenic, and recreational resources of the National Heritage Area;

(D) the management plan would not adversely affect any activities authorized on Federal land under public land laws or land use plans;

(E) the local coordinating entity has demonstrated the financial capability, in partnership with others, to carry out the plan;

(F) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local elements of the management plan; and

(G) the management plan demonstrates partnerships among the local coordinating entity, Federal, State, and local governments, regional planning organizations, nonprofit organizations, or private sector parties for implementation of the management plan.

(4) DISAPPROVAL.—

(A) IN GENERAL.—If the Secretary disapproves the management plan, the Secretary—

(i) shall advise the local coordinating entity in writing of the reasons for the disapproval; and

(ii) may make recommendations to the local coordinating entity for revisions to the management plan.

(B) DEADLINE.—Not later than 180 days after receiving a revised management plan, the Secretary shall approve or disapprove the revised management plan.

(5) AMENDMENTS.—

(A) IN GENERAL.—An amendment to the management plan that substantially alters the purposes of the National Heritage Area shall be reviewed by the Secretary and approved or disapproved in the same manner as the original management plan.

(B) IMPLEMENTATION.—The local coordinating entity shall not use Federal funds authorized by this Act to implement an amendment to the management plan until the Secretary approves the amendment.

SEC. 6. LOCAL COORDINATING ENTITIES.

(a) DUTIES.—To further the purposes of the National Heritage Area, the local coordinating entity shall—

(1) prepare a management plan for the National Heritage Area, and submit the management plan to the Secretary, in accordance with section 5;

(2) submit an annual report to the Secretary for each fiscal year for which the local coordinating committee receives Federal funds under this Act, specifying—

(A) the specific performance goals and accomplishments of the local coordinating committee;

(B) the expenses and income of the local coordinating committee;

(C) the amounts and sources of matching funds;

(D) the amounts leveraged with Federal funds and sources of the leveraging; and

(E) grants made to any other entities during the fiscal year;

(3) make available for audit for each fiscal year for which the local coordinating entity receives Federal funds under this Act, all information pertaining to the expenditure of the funds and any matching funds; and

(4) encourage economic viability and sustainability that is consistent with the purposes of the National Heritage Area.

(b) AUTHORITIES.—For the purposes of preparing and implementing the approved management plan for the National Heritage Area, the local coordinating entity may use Federal funds made available under this Act to—

(1) make grants to political jurisdictions, nonprofit organizations, and other parties within the National Heritage Area;

(2) enter into cooperative agreements with or provide technical assistance to political jurisdictions, nonprofit organizations, Federal agencies, and other interested parties;

(3) hire and compensate staff, including individuals with expertise in—

(A) natural, historical, cultural, educational, scenic, and recreational resource conservation;

(B) economic and community development; and

(C) heritage planning;

(4) obtain funds or services from any source, including other Federal laws or programs;

(5) contract for goods or services; and

(6) support activities of partners and any other activities that further the purposes of the National Heritage Area and are consistent with the approved management plan.

(c) PROHIBITION ON ACQUISITION OF REAL PROPERTY.—The local coordinating entity may not use Federal funds authorized under this Act to acquire any interest in real property.

SEC. 7. RELATIONSHIP TO OTHER FEDERAL AGENCIES.

(a) IN GENERAL.—Nothing in this Act affects the authority of a Federal agency to provide technical or financial assistance under any other law.

(b) CONSULTATION AND COORDINATION.—The head of any Federal agency planning to conduct activities that may have an impact on a National Heritage Area is encouraged to consult and coordinate the activities with the Secretary and the local coordinating entity to the maximum extent practicable.

(c) OTHER FEDERAL AGENCIES.—Nothing in this Act—

(1) modifies, alters, or amends any law or regulation authorizing a Federal agency to manage Federal land under the jurisdiction of the Federal agency;

(2) limits the discretion of a Federal land manager to implement an approved land use plan within the boundaries of a National Heritage Area; or

(3) modifies, alters, or amends any authorized use of Federal land under the jurisdiction of a Federal agency.

SEC. 8. PRIVATE PROPERTY AND REGULATORY PROTECTIONS.

Nothing in this Act—

(1) abridges the rights of any property owner (whether public or private), including the right to refrain from participating in any plan, project, program, or activity conducted within the National Heritage Area;

(2) requires any property owner to permit public access (including access by Federal, State, or local agencies) to the property of the property owner, or to modify public access or use of property of the property owner under any other Federal, State, or local law;

(3) alters any duly adopted land use regulation, approved land use plan, or other regulatory authority of any Federal, State or local agency, or conveys any land use or other regulatory authority to any local coordinating entity;

(4) authorizes or implies the reservation or appropriation of water or water rights;

(5) diminishes the authority of the State to manage fish and wildlife, including the regulation of fishing and hunting within the National Heritage Area; or

(6) creates any liability, or affects any liability under any other law, of any private property owner with respect to any person injured on the private property.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) SUITABILITY-FEASIBILITY STUDIES.—There is authorized to be appropriated to conduct and review suitability-feasibility studies under section 4 $750,000 for each fiscal year, of which not more than $250,000 for any fiscal year may be used for any individual suitability-feasibility study for a proposed National Heritage Area.

(b) LOCAL COORDINATING ENTITIES.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out section 6 $15,000,000 for each fiscal year, of which not more than—

(A) $1,000,000 may be made available for any fiscal year for any individual National Heritage Area, to remain available until expended; and

(B) a total of $10,000,000 may be made available for all such fiscal years for any individual National Heritage Area.

(2) TERMINATION DATE.—

(A) IN GENERAL.—The authority of the Secretary to provide financial assistance to an individual local coordinating entity under this Act (excluding technical assistance and administrative oversight) shall terminate on the date that is 15 years after the date of the initial receipt of the assistance by the local coordinating committee.

(B) DESIGNATION.—A National Heritage Area shall retain the designation as a National Heritage Area after the termination date prescribed in subparagraph (A).

(3) ADMINISTRATION.—Not more than 5 percent of the amount of funds made available under paragraph (1) for a fiscal year may be used by the Secretary for technical assistance, oversight, and administrative purposes.

(c) MATCHING FUNDS.—

(1) IN GENERAL.—As a condition of receiving a grant under this Act, the recipient of the grant shall provide matching funds in an amount that is equal to the amount of the grant.

(2) ADMINISTRATION.—The recipient matching funds—

(A) shall be derived from non-Federal sources; and

(B) may be made in the form of in-kind contributions of goods or services fairly valued.

By Ms. STABENOW (for herself, Mrs. LINCOLN, and Mr. LEVIN):

S. 2544. A bill to provide for the certification of programs to provide uninsured employees of small businesses access to health coverage, and for other purposes; to the Committee on Finance.

Ms. STABENOW. Mr. President, today I rise to introduce the Health Care Access for Small Businesses Act of 2004. I am pleased to be joined in this endeavor by my colleagues, Senator LINCOLN and Michigan's senior Senator LEVIN. My bill would help small businesses provide health coverage for their employees, an important first step in providing access to health care for all Americans.

Last month, thousands of Americans participated in the annual Cover the Uninsured week, a discussion about the urgent need to cover the uninsured. The sheer breadth of the groups that participated in the unprecedented effort demonstrates the urgency of this issue. Labor unions were united with business groups, doctors with nurses, and charity health care providers with for-profit hospitals and insurance companies.

And yesterday, the consumer group Families USA and the governors of Iowa, Kansas, and Maine released even more disturbing news. Using Census Bureau data, they found that approximately 81.8 million Americans—one out of three people under 65 years of age—were uninsured at some point of time for the past two years. Almost two-thirds were uninsured for six months or more; and over half were uninsured for at least nine months.

We need to stop having discussions and start finding solutions. Too many hard working Americans are going without health insurance. There is a great misconception that uninsured Americans are largely unemployed or on welfare. That is simply not the case. More than 80 percent of uninsured Americans are part of working families, and almost half work for small businesses. If we can help small businesses cover their employees, we will have made great progress in covering the uninsured.

The bill I am introducing today is aimed at making coverage more affordable for employees of small businesses through what is called a ''three-share'' program. It would not impose any new funding mandates on state or local governments nor would it create new bureaucracy. It is an innovative community-based approach that could work throughout the country.

And it's aimed at ensuring primary care services are more available. We know that the primary care model through federally qualified health centers has been a tremendous success. This would build on this success by empowering communities—health care providers, small businesses, churches, civic groups—to form their own health care programs.

The three-share model is an innovative community-based idea that has been working across the U.S. from California to Arkansas to Maryland and, of course, Michigan. The name ''three-share'' stems from the program's payment structure. Premiums are shared between the employer who pays 30 percent, the employee who pays 30 percent, and the community which covers the remaining 40 percent of the cost.

In a three share model, a non-profit or local government entity serves as the manager of the plan. They design a benefit package by negotiating directly with providers or contracting through an insurance company. Then, they recruit small businesses that have not offered insurance coverage to their employees for the past year. The average cost for coverage is about $1,800 per year, much lower than the national average for commercial insurance, which on average costs about $3,400 for a single person and $9,000 for a family, according to the 2003 Kaiser survey of

employer benefits. Of the $1,800, the employer and employee would each pay approximately $540 and the community would pay about $720.

And they have been successful. For example, in Muskegon, Michigan, the three-share program Access Health has been working with about 400 small businesses to cover some 1,500 uninsured full and part-time employees. Wayne County has operated Health Choice for a decade. Although it is undergoing some changes, it has nearly 1,300 businesses enrolled and covers everyone from cab drivers, nail salon technicians, and nursing aides. Kent County, where Grand Rapids is located, began enrolling small businesses and employees in their program in 2002 and hope to grow to cover 2,500 individuals this year.

Different three share plans have received funds for the community portion from various places. In Michigan, most of the money has come from Medicaid funds. A plan in California uses money from the tobacco settlement, while a plan in Arkansas raises funds through church events and other community initiatives.

Unfortunately, despite the nuances that distinguish three share plans from one another, they all share a common challenge: they all lack a stable and sustainable funding source for the community share. This bill will help provide a steady stream of funding and analyze what three shares do right and how communities can develop their own three share model programs.

Insuring more working families will also take the pressure off state Medicaid budgets. Adequate care for those presently uninsured will also help slash the billions that is spent on uncompensated care.

Providing health care for these families fulfills a moral commitment. No one in America who gets up in the morning and goes to work should go to sleep at night fearful that an illness or injury in the family could wipe out everything they have worked hard for. This is a great nation, and together we can ensure that no American has to go without health care again.

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

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

S. 2544

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 ''Health Care Access for Small Businesses Act of 2004''.

SEC. 2. THREE-SHARE PROGRAMS.

The Social Security Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following:

''TITLE XXII—PROVIDING FOR THE UNINSURED

''SEC. 2201. THREE-SHARE PROGRAMS.

''(a) PILOT PROGRAMS.—The Secretary, acting through the Administrator, shall award grants under this section for the startup and operation of 50 eligible three-share pilot programs for a 5-year period.

''(b) GRANTS FOR THREE-SHARE PROGRAMS.—

''(1) ESTABLISHMENT.—The Administrator may award grants to eligible entities—

''(A) to establish three-share programs;

''(B) to provide for contributions to the premiums assessed for coverage under a three-share program as provided for in subsection (c)(2)(B)(iii); and

''(C) to establish risk pools.

''(2) THREE-SHARE PROGRAM PLAN.—Each entity desiring a grant under this subsection shall develop a plan for the establishment and operation of a three-share program that meets the requirements of paragraphs (2) and (3) of subsection (c).

''(3) APPLICATION.—Each entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner and containing such information as the Administrator may require, including—

''(A) the three-share program plan described in paragraph (2); and

''(B) an assurance that the eligible entity will—

''(i) determine a benefit package;

''(ii) recruit businesses and employees for the three-share program;

''(iii) build and manage a network of health providers or contract with an existing network or licensed insurance provider;

''(iv) manage all administrative needs; and

''(v) establish relationships among community, business, and provider interests.

''(4) PRIORITY.—In awarding grants under this section the Secretary shall give priority to an applicant—

''(A) that is an existing three-share program;

''(B) that is an eligible three-share program that has demonstrated community support; or

''(C) that is located in a State with insurance laws and regulations that permit three-share program expansion.

''(c) GRANT ELIGIBILITY.—

''(1) IN GENERAL.—The Secretary, acting through the Administrator, shall promulgate regulations providing for the eligibility of three-share programs for participation in the pilot program under this section.

''(2) THREE-SHARE PROGRAM REQUIREMENTS.—

''(A) IN GENERAL.—To be determined to be an eligible three-share program for purposes of participation in the pilot program under this section a three-share program shall—

''(i) be either a non-profit or local governmental entity;

''(ii) define the region in which such program will provide services;

''(iii) have the capacity to carry out administrative functions of managing health plans, including monthly billings, verification/enrollment of eligible employers and employees, maintenance of membership rosters, development of member materials (such as handbooks and identification cards), customer service, and claims processing; and

''(iv) have demonstrated community involvement.

''(B) PAYMENT.—To be eligible under paragraph (1), a three-share program shall pay the costs of services provided under subparagraph (A)(ii) by charging a monthly premium for each covered individual to be divided as follows:

''(i) Not more than 30 percent of such premium shall be paid by a qualified employee desiring coverage under the three-share program.

''(ii) Not more than 30 percent of such premium shall be paid by the qualified employer of such a qualified employee.

''(iii) At least 40 percent of such premium shall be paid from amounts provided under a grant under this section.

''(iv) Any remaining amount shall be paid by the three-share program from other public, private, or charitable sources.

''(C) PROGRAM FLEXIBILITY.—A three-share program may set an income eligibility guideline for enrollment purposes.

''(3) COVERAGE.—

''(A) IN GENERAL.—To be an eligible three-share program under this section, the three-share program shall provide at least the following benefits:

''(i) Physicians services.

''(ii) In-patient hospital services.

''(iii) Out-patient services.

''(iv) Emergency room visits.

''(v) Emergency ambulance services.

''(vi) Diagnostic lab fees and x-rays.

''(vii) Prescription drug benefits.

''(B) LIMITATION.—Nothing in subparagraph (A) shall be construed to require that a three-share program provide coverage for services performed outside the region described in paragraph (2)(A)(i).

''(C) PREEXISTING CONDITIONS.—A program described in subparagraph (A) shall not be an eligible three-share program under paragraph (1) if any individual can be excluded from coverage under such program because of a preexisting health condition.

''(d) GRANTS FOR EXISTING THREE-SHARE PROGRAMS TO MEET CERTIFICATION REQUIREMENTS.—

''(1) IN GENERAL.—The Administrator may award grants to three-share programs that are operating on the date of enactment of this section.

''(2) APPLICATION.—Each eligible entity desiring a grant under this subsection shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator may require.

''(e) APPLICATION OF STATE LAWS.—Nothing in this section shall be construed to preempt State law.

''(f) DISTRESSED BUSINESS FORMULA.—

''(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Administrator of the Health Resources and Services Administration shall develop a formula to determine which businesses qualify as distressed businesses for purposes of this section.

''(2) EFFECT ON INSURANCE MARKET.—Granting eligibility to a distressed business using the formula under paragraph (1) shall not interfere with the insurance market. Any business found to have reduced benefits to qualify as a distressed business under the formula under paragraph (1) shall not be eligible to be a three-share program for purposes of this section.

''(g) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Health Resources and Services Administration.

''(2) COVERED INDIVIDUAL.—The term 'covered individual' means—

''(A) a qualified employee; or

''(B) a child under the age of 23 or a spouse of such qualified employee who—

''(i) lacks access to health care coverage through their employment or employer;

''(ii) lacks access to health coverage through a family member;

''(iii) is not eligible for coverage under the medicare program under title XVIII or the medicaid program under title XIX; and

''(iv) does not qualify for benefits under the State Children's Health Insurance Program under title XXI.

''(3) DISTRESSED BUSINESS.—The term 'distressed business' means a business that—

''(A) in light of economic hardship and rising health care premiums may be forced to discontinue or scale back its health care coverage; and

''(B) qualifies as a distressed business according to the formula under subsection (g).

''(4) ELIGIBLE ENTITY.—The term 'eligible entity' means an entity that meets the requirements of subsection (a)(2)(A).

''(5) QUALIFIED EMPLOYEE.—The term 'qualified employee' means any individual employed by a qualified employer who meets certain criteria including—

''(A) lacking access to health coverage through a family member or common law partner;

''(B) not being eligible for coverage under the medicare program under title XVIII or the medicaid program under title XIX; and

''(C) agreeing that the share of fees described in subsection (a)(2)(B)(i) shall be paid in the form of payroll deductions from the wages of such individual.

''(6) QUALIFIED EMPLOYER.—The term 'qualified employer' means an employer as defined in section 3(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(d)) who—

''(A) is a small business concern as defined in section 3(a) of the Small Business Act (15 U.S.C. 632);

''(B) is located in the region described in subsection (a)(2)(A)(i); and

''(C) has not contributed to the health care benefits of its employees for at least 12 months consecutively or currently provides insurance but is classified as a distressed business.

''(g) EVALUATION.—Not later than 90 days after the end of the 5-year period during which grants are available under this section, the General Accounting Office shall submit to the Secretary and the appropriate committees of Congress a report concerning—

''(1) the effectiveness of the programs established under this section;

''(2) the number of individuals covered under such programs;

''(3) any resulting best practices; and

''(4) the level of community involvement.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2005 through 2010.''.

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

S. 2545. A bill to amend title XVIII and XIX of the Social Security Act and title III of the Public Health Service Act to improve access to information about individual's health care options and legal rights for care near the end of life, to promote advance care planning and decisionmaking so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes; to the Committee on Finance.

Mr. NELSON of Florida. Mr. President, I am pleased to be joined by my colleague and cosponsor Senator JAY ROCKEFELLER as we introduce the Advance Directives Improvement and Education Act of 2004. Senators ROCKEFELLER and COLLINS, along with Senator WYDEN, sponsored a bill with similar goals in the 107th Congress and have provided invaluable support and counsel in drafting the bill we introduce today.

The Advance Directives Improvement and Education Act of 2004 has a simple purpose: to encourage all adults in America, especially those 65 and older, to think about, talk about and write down their wishes for medical care near the end-of-life should they become unable to make decisions for themselves. Advance directives, which include a living will, stating the individual's preferences for care, and a power of attorney for health care, are critical documents that each of us should have. The goal is clear, but reaching it requires that we educate the public about the importance of advance directives, offer opportunities for discussion of the issues, and reinforce the requirement that health care providers honor patients' wishes. This bill is designed to do just that.

Americans are afraid of death. We don't like to think about it, talk about it, or plan for it. Any yet, we will all face it. Not only our own deaths, but our parents, siblings, friends, and sometimes, tragically, children. Today, most Americans face death unprepared. Family members frequently end up making critical medical decisions for incapacitated patients, yet they, too, are unprepared. Only 15 to 20 percent of adults have advance directives. Among this group, many have not discussed the contents of these important documents with their families or even the person named as the health care proxy.

It is time to bring this discussion into the mainstream. Too much is at stake to continue to deny our mortality. You all know about the tragic situation going on in Florida with Terri Schiavo. Here is a young woman in a persistent vegetative state who is the subject of a debate about her treatment between her husband and her parents, a debate that has now become a court case and a legislative quagmire. Why? Because she didn't write down what type of care she would want in the event an accident, illness or other medical condition caused her to be in an incapacitated state. She is young and didn't think about death or dying. If she had an advance directive that made her wishes clear and named a health care proxy to make decisions for her should she be unable to do so for herself, the treatment debate might continue, but there would be no question as to who could decide. The Supreme Court has clearly affirmed that competent adults have the right to refuse unwanted medical treatment Washington v. Glucksburg and Vacco v. Quill, 1997, but it also stressed that advance directives are a means of safeguarding that right should adults become incapable of deciding for themselves.

Fortunately, situations like Mrs. Schiavo's are rare. Of the 2.5 million people who die each year 83 percent are Medicare beneficiaries. In fact, 27 percent of Medicare expenditures cover care in the last year of life. Remember, everyone who enrolls in Medicare will die on Medicare. The Advance Directives Improvement and Education Act encourages all Medicare beneficiaries to prepare advance directives by providing a free physician office visit for the purpose of discussing end-of-life care choices and other issues around medical decision-making in a time of incapacitation. Physicians will be reimbursed for spending time with their patients to help them understand situations in which an advance directive would be useful, medical options, the Medicare hospice benefit and other concerns. The conversation will also enable phyisicans to learn about their patients' wishes, fears, religious beliefs, and life experiences that might influence their medical care wishes. These are important aspects of a physician-patient relationship that are too often unaddressed.

Another part of our bill will provide funds for the Department of Health and Human Services to conduct a public education campaign to raise awareness of the importance of planning for care near the end of life. This campaign would explain what advance directives are, where they are available, what questions need to be asked and answered, and what to do with the executed documents. HHS, directly or through grants, would also establish an information clearinghouse where consumers could receive state-specific information and consumer-friendly documents and publications.

State-specific information is needed because in addition to the federal Patients Self-Determination Act passed in 1990, most states also have enacted advance directive laws. Because the state laws differ, some states may be reluctant to honor advance directives that were executed in another state. The bill we introduce today contains language that would make all advance directives ''portable,'' that is, useful from one state to another. As long as the documents were lawfully executed in the state of origin, they must be accepted and honored in the state in which they are presented, unless to do so would violate state law.

All of the provisions in the Advance Directives Improvement and Education Act of 2004 are there for one reason: to increase the number of people in the United States who have advance directives, who have discussed their wishes with their physicians and families, and who have given copies of the directives to their loved ones, health care providers, and legal representatives.

Senator ROCKEFELLER and I all believe that as our Medicare population grows and life expectancy lengthens, improving care near the end of life must be a priority. Helping people complete these critical documents is an essential part of making the final journey as meaningful and peaceful as possible.

Over the next decade or two our elderly population will grow. Baby-boomers, used to having control of

their lives and demanding the best, will be stunned to discover that good end-of-life care is hard to find. I recommend to all of you a report called Means to a Better End: A Report on Dying in America Today that was published in November 2002 by Last Acts Partnership. In it, every state and the District of Columbia was rated on eight different criteria to assess the state of end-of-life care in this country. Not one state—not mine, not yours—received a high grade. Some did well in one or two areas, but none did well in half or more of the measures; all were mediocre at best. The researchers found that too many people end their days in hospitals and nursing homes, attached to machines, alone, in pain. Doctors, not wanting to admit ''failure,'' as many of them see death, urge aggressive treatments such as chemotherapy on patients who have little chance of responding to it. Pain medication is often underprescribed or withheld for fear that the dying patient—dying patient—might become addicted to the drug.

The good news is that growing numbers of health care providers, nonprofit organizations and consumer advocates recognize the need for change. New palliative care programs, pain protocols and hospice services are being instituted in facilities around the country. Another Last Acts Partnership publication, On the Road from Theory to Practice highlights the best programs and practices for others to emulate.

This body is a legislative institution not a medical one—with the exception of the distinguished majority leader, of course. We cannot legislate good medical care or compassion. What we can do, what I hope we will do, is to enact this bill so that the American public can participate in improving end-of-life care—first, by filling out their own advice directives and talking to their families about them; and by raising their voices to demand that our health care systems honor their wishes and improve the way they care for people who are near the end of life. If we can do that, we will have done a great deal.

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

Mr. President, I also ask that a letter of support for this legislation from the Last Acts Partnership also be printed in the RECORD.

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

S. 2545

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Advance Directives Improvement and Education Act of 2004''.

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

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Every year 2,500,000 people die in the United States. Eighty percent of those people die in institutions such as hospitals, nursing homes, and other facilities. Chronic illnesses, such as cancer and heart disease, account for 2 out of every 3 deaths.

(2) In January 2004, a study published in the Journal of the American Medical Association concluded that many people dying in institutions have unmet medical, psychological, and spiritual needs. Moreover, family members of decedents who received care at home with hospice services were more likely to report a favorable dying experience.

(3) In 1997, the Supreme Court of the United States, in its decisions in Washington v. Glucksberg and Vacco v. Quill, reaffirmed the constitutional right of competent adults to refuse unwanted medical treatment. In those cases, the Court stressed the use of advance directives as a means of safeguarding that right should those adults become incapable of deciding for themselves.

(4) A study published in 2002 estimated that the overall prevalence of advance directives is between 15 and 20 percent of the general population, despite the passage of the Patient Self-Determination Act in 1990, which requires that health care providers tell patients about advance directives.

(5) Competent adults should complete advance care plans stipulating their health care decisions in the event that they become unable to speak for themselves. Through the execution of advance directives, including living wills and durable powers of attorney for health care according to the laws of the State in which they reside, individuals can protect their right to express their wishes and have them respected.

(b) PURPOSES.—The purposes of this Act are to improve access to information about individuals' health care options and legal rights for care near the end of life, to promote advance care planning and decision-making so that individuals' wishes are known should they become unable to speak for themselves, to engage health care providers in disseminating information about and assisting in the preparation of advance directives, which include living wills and durable powers of attorney for health care, and for other purposes.

SEC. 3. MEDICARE COVERAGE OF END-OF-LIFE PLANNING CONSULTATIONS.

(a) COVERAGE.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)), as amended by section 642(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2322), is amended—

(1) in subparagraph (Y), by striking ''and'' at the end;

(2) in subparagraph (Z), by inserting ''and'' at the end; and

(3) by adding at the end the following new subparagraph:

''(AA) end-of-life planning consultations (as defined in subsection (bbb));''.

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x), as amended by section 706(b) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2339), is amended by adding at the end the following new subsection:

''End-of-Life Planning Consultation

''(bbb) The term 'end-of-life planning consultation' means physicians' services—

''(1) consisting of a consultation between the physician and an individual regarding—

''(A) the importance of preparing advance directives in case an injury or illness causes the individual to be unable to make health care decisions;

''(B) the situations in which an advance directive is likely to be relied upon;

''(C) the reasons that the development of a comprehensive end-of-life plan is beneficial and the reasons that such a plan should be updated periodically as the health of the individual changes;

''(D) the identification of resources that an individual may use to determine the requirements of the State in which such individual resides so that the treatment wishes of that individual will be carried out if the individual is unable to communicate those wishes, including requirements regarding the designation of a surrogate decision maker (health care proxy); and

''(E) whether or not the physician is willing to follow the individual's wishes as expressed in an advance directive; and

''(2) that are furnished to an individual on an annual basis or immediately following any major change in an individual's health condition that would warrant such a consultation (whichever comes first).''.

(c) WAIVER OF DEDUCTIBLE AND COINSURANCE.—

(1) DEDUCTIBLE.—The first sentence of section 1833(b) of the Social Security Act (42 U.S.C. 1395*l*(b)) is amended—

(A) by striking ''and'' before ''(6)''; and

(B) by inserting before the period at the end the following: '', and (7) such deductible shall not apply with respect to an end-of-life planning consultation (as defined in section 1861(bbb))''.

(2) COINSURANCE.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395*l*(a)(1)) is amended—

(A) in clause (N), by inserting ''(or 100 percent in the case of an end-of-life planning consultation, as defined in section 1861(bbb))'' after ''80 percent''; and

(B) in clause (O), by inserting ''(or 100 percent in the case of an end-of-life planning consultation, as defined in section 1861(bbb))'' after ''80 percent''.

(d) PAYMENT FOR PHYSICIANS' SERVICES.—Section 1848(j)(3) of the Social Security Act (42 U.S.C. 1395w–4(j)(3)), as amended by section 611(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2304), is amended by inserting ''(2)(AA),'' after ''(2)(W),''.

(e) FREQUENCY LIMITATION.—Section 1862(a)(1) of the Social Security Act (42 U.S.C. 1395y(a)(1)), as amended by section 613(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2306), is amended—

(1) by striking ''and'' at the end of subparagraph (L);

(2) by striking the semicolon at the end of subparagraph (M) and inserting '', and''; and

(3) by adding at the end the following new subparagraph:

''(N) in the case of end-of-life planning consultations (as defined in section 1861(bbb)), which are performed more frequently than is covered under paragraph (2) of such section;''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 2005.

SEC. 4. IMPROVEMENT OF POLICIES RELATED TO THE USE AND PORTABILITY OF ADVANCE DIRECTIVES.

(a) MEDICARE.—Section 1866(f) of the Social Security Act (42 U.S.C. 1395cc(f)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by inserting ''and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (3), by striking ''a written'' and inserting ''an''; and

(3) by adding at the end the following new paragraph:

''(5)(A) In addition to the requirements of paragraph (1), a provider of services, Medicare Advantage organization, or prepaid or eligible organization (as the case may be) shall give effect to an advance directive executed outside the State in which such directive is presented, even one that does not appear to meet the formalities of execution, form, or language required by the State in which it is presented to the same extent as such provider or organization would give effect to an advance directive that meets such requirements, except that a provider or organization may decline to honor such a directive if the provider or organization can reasonably demonstrate that it is not an authentic expression of the individual's wishes concerning his or her health care. Nothing in this paragraph shall be construed to authorize the administration of medical treatment otherwise prohibited by the laws of the State in which the directive is presented.

''(B) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(b) MEDICAID.—Section 1902(w) of the Social Security Act (42 U.S.C. 1396a(w)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) by striking ''in the individual's medical record'' and inserting ''in a prominent part of the individual's current medical record''; and

(ii) by inserting ''and if presented by the individual (or on behalf of the individual), to include the content of such advance directive in a prominent part of such record'' before the semicolon at the end;

(B) in subparagraph (D), by striking ''and'' after the semicolon at the end;

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting after subparagraph (E) the following new subparagraph:

''(F) to provide each individual with the opportunity to discuss issues relating to the information provided to that individual pursuant to subparagraph (A) with an appropriately trained professional.'';

(2) in paragraph (4), by striking ''a written'' and inserting ''an''; and

(3) by adding at the end the following paragraph:

''(6)(A) In addition to the requirements of paragraph (1), a provider or organization (as the case may be) shall give effect to an advance directive executed outside the State in which such directive is presented, even one that does not appear to meet the formalities of execution, form, or language required by the State in which it is presented to the same extent as such provider or organization would give effect to an advance directive that meets such requirements, except that a provider or organization may decline to honor such a directive if the provider or organization can reasonably demonstrate that it is not an authentic expression of the individual's wishes concerning his or her health care. Nothing in this paragraph shall be construed to authorize the administration of medical treatment otherwise prohibited by the laws of the State in which the directive is presented.

''(B) The provisions of this paragraph shall preempt any State law to the extent such law is inconsistent with such provisions. The provisions of this paragraph shall not preempt any State law that provides for greater portability, more deference to a patient's wishes, or more latitude in determining a patient's wishes.''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsections (a) and (b) shall apply to provider agreements and contracts entered into, renewed, or extended under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), and to State plans under title XIX of such Act (42 U.S.C. 1396 et seq.), on or after such date as the Secretary of Health and Human Services specifies, but in no case may such date be later than 1 year after the date of enactment of this Act.

(2) EXTENSION OF EFFECTIVE DATE FOR STATE LAW AMENDMENT.—In the case of a State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of the session is considered to be a separate regular session of the State legislature.

SEC. 5. INCREASING AWARENESS OF THE IMPORTANCE OF END-OF-LIFE PLANNING.

Title III of the Public Health Service Act is amended by adding at the end the following new part:

''PART R—PROGRAMS TO INCREASE AWARENESS OF ADVANCE DIRECTIVE PLANNING ISSUES

''SEC. 399Z–1. ADVANCE DIRECTIVE EDUCATION CAMPAIGNS AND INFORMATION CLEARINGHOUSES.

''(a) ADVANCE DIRECTIVE EDUCATION CAMPAIGN.—The Secretary shall, directly or through grants awarded under subsection (c), conduct a national public education campaign—

''(1) to raise public awareness of the importance of planning for care near the end of life;

''(2) to improve the public's understanding of the various situations in which individuals may find themselves if they become unable to express their health care wishes;

''(3) to explain the need for readily available legal documents that express an individual's wishes, through advance directives (including living wills, comfort care orders, and durable powers of attorney for health care); and

''(4) to educate the public about the availability of hospice care and palliative care.

''(b) INFORMATION CLEARINGHOUSE.—The Secretary, directly or through grants awarded under subsection (c), shall provide for the establishment of a national, toll-free, information clearinghouse as well as clearinghouses that the public may access to find out about State-specific information regarding advance directive and end-of-life decisions.

''(c) GRANTS.—

''(1) IN GENERAL.—The Secretary shall use at least 60 percent of the funds appropriated under subsection (d) for the purpose of awarding grants to public or nonprofit private entities (including States or political subdivisions of a State), or a consortium of any of such entities, for the purpose of conducting education campaigns under subsection (a) and establishing information clearinghouses under subsection (b).

''(2) PERIOD.—Any grant awarded under paragraph (1) shall be for a period of 3 years.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000.''.

SEC. 6. GAO STUDIES AND REPORTS ON END-OF-LIFE PLANNING ISSUES.

(a) STUDY AND REPORT ON COMPLIANCE WITH ADVANCE DIRECTIVES AND OTHER ADVANCE PLANNING DOCUMENTS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the effectiveness of advance directives in making patients' wishes known and honored by health care providers.

(2) REPORT.—Not later than the date that is 18 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on this study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Comptroller General determines to be appropriate.

(b) STUDY AND REPORT ON ESTABLISHMENT OF NATIONAL ADVANCE DIRECTIVE REGISTRY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the implementation of the amendments made by section 3 (relating to medicare coverage of end-of-life planning consultations).

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on this study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Comptroller General determines to be appropriate.

(c) STUDY AND REPORT ON ESTABLISHMENT OF NATIONAL ADVANCE DIRECTIVE REGISTRY.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the feasibility of a national registry for advance directives, taking into consideration the constraints created by the privacy provisions enacted as a result of the Health Insurance Portability and Accountability Act.

(2) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on this study conducted under paragraph (1) together with recommendations for such legislation and administrative action as the Comptroller General determines to be appropriate.

LAST ACTS PARTNERSHIP,
Washington, DC, June 17, 2004.

Senator BILL NELSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR NELSON: On behalf of Last Acts Partnership, a national nonprofit organization dedicated to improving care and

caring near the end of life, I thank you for introducing the ''Advance Directives Improvement and Education Act of 2004.'' Your recognition of the importance of advance care planning and your leadership in crafting this legislation is greatly appreciated. We applaud your commitment to educating Americans about the need for these critical documents and support the goal of encouraging all Medicare beneficiaries to discuss advance directives with their physicians and families.

A life-threatening or terminal illness or a tragic accident takes its toll not only on the patient but on his or her family as well. After more than 60 years of working in the end-of-life care field, Last Acts Partnership (formerly Partnership for Caring and Choice in Dying) knows full well how much worse it is when people are asked to make decisions for a loved one having never discussed his or her wishes for care at the end of life. Advance directives and the necessary conversations that should accompany them are a gift to guide those who find themselves responsible for another's care.

Ensuring that each of us receives the kind of care we want if we are incapacitated or approaching death must be a policy priority as we look to the future of health care. The portability provision in your bill is another necessary step toward that goal. Providing an information clearinghouse is also key because too many people, including health care providers, are unaware of options such as hospice and palliative care, home care, spiritual counseling and other resources.

Again, Senator, we thank you, your cosponsors, and all of the senators who join in support of this important legislation. Last Acts Partnership looks forward to assisting you and your staff as it moves through the legislative process. Our membership and our collegial organizations will be working to support the passage of the ''Advance Directives Improvement and Education Act of 2004'' and, more importantly, to assure that the health care wishes of our loved ones and ourselves will be honored.

Sincerely,

KAREN ORLOFF KAPLAN, MSW, MPH, ScD,
President and CEO.

By Mr. DURBIN:

S. 2546. A bill to amend the Federal Food, Drug, and Cosmetic Act to require premarket consultation and approval with respect to genetically engineered foods, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Mr. President, today I am introducing legislation that will strengthen consumer confidence in the safety of genetically engineered food and genetically engineered animals that may enter the food supply. This bill, known as the Genetically Engineered Food Act (GEFA) of 2004, requires the Federal Food and Drug Administration (FDA) to conduct an environmental and safety review of all genetically engineered plants and animals that may enter the food supply.

Our country has been blessed with one of the safest and most abundant food supplies in the world but we can do better. Genetically engineered foods have become a major portion of the American food supply and promise to become a larger part in the future. The next generation of genetically engineered foods will be more complex, will possess more novel genetic variations and will challenge regulatory agencies' ability to assess and manage their food safety and potential environmental effects.

Currently, the FDA screens genetically engineered foods through a voluntary consultation program. Despite assurances from the FDA for the past two years that the proposed and more stringent ''pre-market biotechnology notification'' (PBN) rules governing genetically engineered foods were imminent, those rules have yet to appear.

The Genetically Engineered Food Act of 2004 will create a transparent process that promotes public participation as decisions are made regarding the safety and environmental impact of genetically engineered plants and animals.

This bill will make the review process mandatory in place of the current voluntary system, which will reduce the chance that a potentially harmful product could bypass or receive inadequate regulatory oversight. The measure will establish unambiguous and predictable pathways for developers of genetically modified foods to gain approval to go to market and will ensure consumer confidence in the integrity of the system through a fully transparent review process.

An improved regulatory system for genetically engineered foods will boost consumer confidence in biotechnology derived foods, give federal agencies clear legal authority to deal with new technology and provide a process to detect problems even after genetically engineered foods are approved.

The Genetically Engineered Food Act of 2004 will strengthen government oversight in several important ways.

Mandatory Review: Producers of genetically engineered foods will be required to receive approval from the FDA before introducing their products into interstate commerce. The FDA will ensure, based on the best scientific evidence, that genetically engineered foods are just as safe as comparable food products before allowing them on the market.

Public Involvement and Transparency: In order for our country to gain the benefits that genetically engineered plants and animals can offer as additional sources of food, public confidence must be maintained in the safety of these products. My bill will provide for public involvement in the approval process by providing information to consumers, and giving them the opportunity to provide comments. Adding transparency will increase the public's understanding and confidence in the safety of these animals as they enter the food supply.

Scientific studies and other materials submitted to the FDA as part of the mandatory review of genetically engineered foods will be made available for public review and comment. Members of the public will be able to submit any new information on genetically engineered foods not previously available to the FDA and request a new review of a particular genetically engineered food product even if that food is already on the market.

Testing: The FDA, in conjunction with other Federal agencies, will be given the authority to conduct scientifically-sound testing to determine whether genetically engineered foods are inappropriately entering the food supply.

Communication: The FDA and other Federal agencies will establish a registry of genetically engineered foods for easy access to information about those foods that have been cleared for market. The genetically engineered food review process will be fully transparent to give the public access to all non-confidential information.

Environmental Review with Respect to Animals: While genetically engineered foods such as corn and soybeans are already part of our food supply, genetically engineered animals will also soon be ready for market approval. These animals hold much promise as an additional source of food for our nation. However, we must ensure not only the safety of these genetically engineered animals as they enter the food supply, but also the impact of these animals as they come in contact with the environment.

The provisions of my bill are consistent with the recommendations made in the 2004 National Academy of Sciences report, ''Biological Confinement of Genetically Engineered Organisms''; the Pew Initiative on Food and Biotechnology 2004 report, ''Issues in the Regulation of Genetically Engineered Plants and Animals''; and the 2004 report from the Ecological Society of America, ''Genetically Engineered Organisms and the Environment''.

The FDA has a mandatory review process in place that is used to review the food safety of genetically engineered animals before they enter the food supply. However, this bill will provide the FDA with additional oversight authorities to address the potential environmental impact of genetically engineered animals prior to their safety approval.

Environmental issues have been identified as a major science-based concern associated with genetically engineered animals. Therefore, to obtain approval to market a genetically engineered animal, the developer must include an environmental assessment that analyzes the potential effects of the genetically engineered animal on the environment. A plan must also be in place to reduce or eliminate any negative effects. If the environmental assessment is not adequate, approval will not be granted.

I urge my colleagues to join me in this effort to strengthen consumer confidence in the safety of genetically engineered foods and genetically engineered animals that may enter the food supply. The Genetically Engineered Foods Act of 2004 will help provide the public with the added assurance that

genetically engineered foods and animals are safe to produce and consume. 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. 2546

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 ''Genetically Engineered Foods Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) genetically engineered food is rapidly becoming an integral part of domestic and international food supplies;

(2) the potential positive effects of genetically engineered foods are enormous;

(3) the potential for both anticipated and unanticipated effects exists with genetic engineering of foods;

(4) genetically engineered food not approved for human consumption has, in the past, entered the human food supply;

(5) environmental issues have been identified as a major science-based concern associated with animal biotechnology;

(6) it is essential to maintain—

(A) public confidence in—

(i) the safety of the food supply; and

(ii) the ability of the Federal Government to exercise adequate oversight of genetically engineered foods; and

(B) the ability of agricultural producers and other food producers of the United States to market, domestically and internationally, foods that have been genetically engineered;

(7) public confidence can best be maintained through careful review and formal determination of the safety of genetically engineered foods, and monitoring of the positive and negative effects of genetically engineered foods as the foods become integrated into the food supply, through a review and monitoring process that—

(A) is scientifically sound, open, and transparent;

(B) fully involves the general public; and

(C) does not subject most genetically engineered foods to the lengthy food additive approval process; and

(8) because genetically engineered foods are developed worldwide and imported into the United States, it is imperative that imported genetically engineered food be subject to the same level of oversight as domestic genetically engineered food.

SEC. 3. DEFINITIONS.

(a) THIS ACT.—In this Act, the terms ''genetic engineering technique'', ''genetically engineered animal'', ''genetically engineered food'', ''interstate commerce'', ''producer'', ''safe'', and ''Secretary'' have the meanings given those terms in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) (as amended by subsection (b)).

(b) FEDERAL FOOD, DRUG, AND COSMETIC ACT.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended—

(1) in subsection (v)—

(A) by striking ''(v) The term'' and inserting the following:

''(v) NEW ANIMAL DRUG.—

''(1) IN GENERAL.—The term'';

(B) by striking ''(1) the composition'' and inserting ''(A) the composition'';

(C) by striking ''(2) the composition'' and inserting ''(B) the composition''; and

(D) by adding at the end the following:

''(2) INCLUSION.—The term 'new animal drug' includes—

''(A) a genetic engineering technique intended to be used to produce an animal; and

''(B) a genetically engineered animal.''; and

(2) by adding at the end the following:

''(nn) GENETICALLY ENGINEERED ANIMAL.—

(1) IN GENERAL.—The term 'genetically engineered animal' means an animal that—

''(A) is intended to be used—

''(i) in the production of a food or dietary supplement; or

''(ii) for any other purpose;

''(B)(i) is produced in the United States; or

''(ii) is offered for import into the United States; and

''(C) is produced using a genetic engineering technique.

''(2) EXCLUSION.—The term 'genetically engineered animal' does not include an established line of a genetically modified animal that—

''(A) is used solely in scientific research; and

''(B) is not intended or expected—

''(i) to enter the food supply; or

''(ii) to be released into the environment.

''(oo) GENETICALLY ENGINEERED FOOD.—

''(1) IN GENERAL.—The term 'genetically engineered food' means a food or dietary supplement, or a seed, microorganism, or ingredient intended to be used to produce a food or dietary supplement, that—

''(A)(i) is produced in the United States; or

''(ii) is offered for import into the United States; and

''(B) is produced using a genetic engineering technique.

''(2) INCLUSION.—The term 'genetically engineered food' includes a split use food.

''(3) EXCLUSION.—The term 'genetically engineered food' does not include a genetically engineered animal.

''(pp) GENETIC ENGINEERING TECHNIQUE.—The term 'genetic engineering technique' means the use of a transformation event to derive food from a plant or animal or to produce an animal.

''(qq) PRODUCER.—The term 'producer', with respect to a genetically engineered animal, genetically engineered food, or genetic engineering technique, means a person that—

''(1) develops, manufactures, or imports the genetically engineered animal or genetically engineered food;

''(2) uses the genetic engineering technique; or

''(3) takes other action to introduce the genetically engineered animal, genetically engineered food, or genetic engineering technique into interstate commerce.

''(rr) SAFE.—The term 'safe', with respect to a genetically engineered food, means—

''(1) as safe as comparable food that is not produced using a genetic engineering technique; or

''(2) if there is no such comparable food, having a reasonable certainty of causing no harm.

''(ss) SPLIT USE FOOD.—The term 'split use food' means a product that—

''(1)(A) is produced in the United States; or

''(B) is offered for import into the United States;

''(2) is produced using a genetic engineering technique; and

''(3) could be used as food by both humans and animals but that the producer does not intend to market as food for humans.

''(tt) TRANSFORMATION EVENT.—The term 'transformation event' means the introduction into a plant or an animal of genetic material that has been manipulated in vitro.''.

SEC. 4. GENETICALLY ENGINEERED FOODS.

Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended—

(1) by inserting after the chapter heading the following:

''Subchapter A—General Provisions''; and

(2) by adding at the end the following:

''Subchapter B—Genetically Engineered Foods

''SEC. 421. PREMARKET CONSULTATION AND APPROVAL.

''(a) IN GENERAL.—A producer of genetically engineered food, before introducing a genetically engineered food into interstate commerce, shall first obtain approval through the use of a premarket consultation and approval process.

''(b) REGULATIONS.—The Secretary shall promulgate regulations that describe—

''(1) all information that is required to be submitted for the premarketing approval process, including—

''(A) specification of the species or other taxonomic classification of plants for which approval is sought;

''(B) identification of the genetically engineered food;

''(C)(i) a description of each type of genetic manipulation made to the genetically engineered food;

''(ii) identification of the manipulated genetic material; and

''(iii) the techniques used in making the manipulation;

''(D) the effect of the genetic manipulation on the composition of the genetically engineered food (including information describing the specific substances that were expressed, removed, or otherwise manipulated);

''(E) a description of the actual or proposed applications and uses of the genetically engineered food;

''(F) information pertaining to—

''(i) the safety of the genetically engineered food as a whole; and

''(ii) the safety of any specific substances introduced, altered, or produced as a result of the genetic manipulation (including information on allergenicity and toxicity);

''(G) test methods for detection of the genetically engineered ingredients in food;

''(H) a summary and overview of information and issues that have been or will be addressed by other regulatory programs for the review of genetically engineered food;

''(I) procedures to be followed to initiate and complete the premarket approval process (including any preconsultation and consultation procedures); and

''(J) any other matters that the Secretary determines to be necessary.

''(2) SPLIT USE FOOD.—

''(A) IN GENERAL.—The regulations under paragraph (1) shall provide for the approval of—

''(i) split use foods that are not approved for human consumption;

''(ii) split use foods that are intended for human use but are marketed under restricted conditions; and

''(iii) other categories of split use food.

''(B) ISSUES.—For each category of split use food, the regulations shall address—

''(i)(I) whether a protocol is needed for segregating a restricted split use food from the food supply; and

''(II) if so, what the protocol shall be;

''(ii)(I) whether action is needed to ensure the purity of any seed to prevent unintended introduction of a genetically engineered trait into a seed that is not designed for that trait; and

''(II) if so, what action is needed and what industry practices represent the best practices for maintaining the purity of the seed;

''(iii)(I) whether a tolerance level should exist regarding cross-mixing of segregated split use foods; and

''(II) if so, the means by which the tolerance level shall be determined;

''(iv) the manner in which the food safety analysis under this section should be conducted, specifying different standards and procedures that are permitted to be applied for nonfood products grown in food crops depending on the degree of containment for that product and the likelihood of the product to enter the food supply;

''(v)(I) the kinds of surveillance that are needed to ensure that appropriate segregation of split use foods is being maintained;

''(II) the manner in which and by whom the surveillance shall be conducted; and

''(III) the manner in which the results of surveillance shall be reported; and

''(vi) clarification of responsibility in cases of breakdown of segregation of a split use food.

''(C) RECALL AUTHORITY.—The regulations shall provide that, in addition to other authority that the Secretary has regarding split use food, the Secretary may order a recall of any split use food (whether or not the split use food has been approved under this section) that—

''(i) is not approved, but has entered the food supply; or

''(ii) has entered the food supply in violation of a condition of restriction under an approval.

''(c) APPLICATION.—The regulations shall require that, as part of the consultation and approval process, a producer submit to the Secretary an application that includes a summary and a complete copy of each research study, test result, or other information referenced by the producer.

''(d) REVIEW.—

''(1) IN GENERAL.—After receiving an application under subsection (c), the Secretary shall—

''(A) determine whether the producer submitted information that appears to be adequate to enable the Secretary to fully assess the safety of the genetically engineered food, and make a description of the determination publicly available; and

''(B) if the Secretary determines that the producer submitted adequate information—

''(i) provide public notice regarding the initiation of the consultation and approval process;

''(ii) make the notice, application, summaries submitted by the producer, and research, test results, and other information referenced by the producer publicly available, including, to the maximum extent practicable, publication in the Federal Register and on the Internet; and

''(iii) provide the public with an opportunity, for not less than 45 days, to submit comments on the application.

''(2) EXCEPTION.—The Secretary may withhold information in an application from public dissemination to protect a trade secret (not including any information disclosing the results of testing to determine whether the genetically engineered food is safe) if—

''(A) the information is exempt from disclosure under section 522 of title 5, United States Code, or applicable trade secret law;

''(B) the applicant—

''(i) identifies with specificity the trade secret information in the application; and

''(ii) provides the Secretary with a detailed justification for each trade secret claim; and

''(C) the Secretary—

''(i) determines that the information qualifies as a trade secret subject to withholding from public dissemination; and

''(ii) makes the determination available to the public.

''(3) DETERMINATION.—Not later than 180 days after determining adequacy of an application under paragraph (1)(A), the Secretary shall issue and make publicly available a determination that—

''(A) summarizes the information referenced by the producer in light of the public comments; and

''(B) contains a finding that the genetically engineered food—

''(i) is safe and may be introduced into interstate commerce;

''(ii) is safe under specified conditions of use and may be introduced into interstate commerce if those conditions are met; or

''(iii) is not safe and may not be introduced into interstate commerce, because the genetically engineered food—

''(I) contains genes that confer antibiotic resistance;

''(II) contains an allergen; or

''(III) presents 1 or more other safety concerns described by the Secretary.

''(4) EXTENSION.—The Secretary may extend the period specified in paragraph (3) if the Secretary determines that an extension of the period is necessary to allow the Secretary to—

''(A) review additional information; or

''(B) address 1 or more issues or concerns of unusual complexity.

''(e) RESCISSION OF APPROVAL.—

''(1) RECONSIDERATION.—On the petition of any person, or on the Secretary's own motion, the Secretary may reconsider an approval of a genetically engineered food on the basis of information that was not available before the approval.

''(2) FINDING FOR RECONSIDERATION.—The Secretary shall conduct a reconsideration on the basis of the information described in paragraph (1) if the Secretary finds that the information—

''(A) is scientifically credible;

''(B) represents significant information that was not available before the approval; and

''(C)(i) suggests potential impacts relating to the genetically engineered food that were not considered in the earlier review; or

''(ii) demonstrates that the information considered before the approval was inadequate for the Secretary to make a safety finding.

''(3) INFORMATION FROM THE PRODUCER.—

''(A) IN GENERAL.—In conducting the reconsideration, the Secretary may require the producer to provide, within a reasonable period of time specified by the Secretary, information needed to facilitate the reconsideration.

''(B) INFORMATION NOT PROVIDED.—If a producer fails to provide information required under subparagraph (A) within the period specified by the Secretary, the Secretary shall take 1 or more of the actions described in paragraph (5).

''(4) DETERMINATION.—After reviewing the information by the petitioner and the producer, the Secretary shall issue a determination that—

''(A) revises the finding made in connection with the approval with respect to the safety of the genetically engineered food; or

''(B) states that, for reasons stated by the Secretary, no revision of the finding is needed.

''(5) ACTION BY THE SECRETARY.—If, based on a reconsideration under this section, the Secretary determines that the genetically engineered food is not safe, the Secretary shall—

''(A) rescind the approval of the genetically engineered food for introduction into interstate commerce;

''(B) recall the genetically engineered food; or

''(C) take such other action as the Secretary determines to be appropriate.

''SEC. 422. MARKETPLACE TESTING AND POST-MARKETING OVERSIGHT.

''(a) TESTING.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall establish a program to conduct testing that the Secretary determines to be necessary to detect, at all stages of production and distribution (from agricultural production to retail sale), the presence of genetically engineered ingredients in food.

''(2) PERMISSIBLE TESTING.—Under the program, the Secretary may conduct tests on foods to detect genetically engineered ingredients—

''(A) that have not been approved for use under this Act, including foods that are developed in foreign countries that have not been approved for marketing in the United States under this Act; or

''(B) the use of which is restricted under this Act (including approval for use as animal feed only, approval only if properly labeled, and approval for growing or marketing only in certain regions).

''(b) POST-MARKET OVERSIGHT.—

''(1) IN GENERAL.—The Secretary shall establish a program to monitor and evaluate the continued safety after commercialization of genetically engineered foods approved under section 421.

''(2) ACTIVITIES.—Under the program, the Secretary shall—

''(A) take appropriate actions to ensure that each split-use food complies with any restriction or other condition on the approval of the split-use food; and

''(B) conduct inspections and monitoring of genetically engineered foods and facilities that produce genetically engineered foods to ensure that only approved genetically engineered foods are marketed to humans.

''SEC. 423. REGISTRY.

''(a) ESTABLISHMENT.—The Secretary, in consultation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other agencies, as appropriate, shall establish a registry for genetically engineered food that contains a description of the regulatory status of all genetically engineered foods approved under section 421.

''(b) REQUIREMENTS.—The registry under subsection (a) shall contain, for each genetically engineered food—

''(1) the technical and common names of the genetically engineered food;

''(2) a description of the regulatory status, under all Federal programs pertaining to the testing and approval of genetically engineered foods, of the genetically engineered food;

''(3) a technical and nontechnical summary of the type of, and a statement of the reason for, each genetic manipulation made to the genetically engineered food;

''(4) the name, title, address, and telephone number of an official at each producer of the genetically engineered food whom members of the public may contact for information about the genetically engineered food;

''(5) the name, title, address, and telephone number of an official at each Federal agency with oversight responsibility over the genetically engineered food whom members of the public may contact for information about the genetically engineered food; and

''(6) such other information as the Secretary determines should be included.

''(c) PUBLIC AVAILABILITY.—The registry under subsection (a) shall be made available to the public, including availability on the Internet.''.

SEC. 5. GENETICALLY ENGINEERED ANIMALS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 512 the following:

''SEC. 512A. GENETICALLY ENGINEERED ANIMALS.

''(a) IN GENERAL.—Section 512 shall apply to genetic engineering techniques intended to be used to produce an animal, and to genetically engineered animals, as provided in this section.

''(b) APPLICATION.—An application under section 512(b)(1) shall include—

''(1) specification of the species or other taxonomic classification of the animal for which approval is sought;

''(2) an environmental assessment that analyzes the potential effects of the genetically engineered animal on the environment, including the potential effect on any nongenetically engineered animal or other part of the environment as a result of any intentional or unintentional exposure of the genetically engineered animal to the environment; and

''(3) a plan to eliminate or mitigate the potential effects to the environment from the release of the genetically engineered animal.

''(c) DISSEMINATION OF APPLICATION AND OPPORTUNITY FOR PUBLIC COMMENT.—

''(1) IN GENERAL.—On receipt of an application under section 512(b)(1), the Secretary shall—

''(A) provide public notice regarding the application, including making the notice available on the Internet;

''(B) make the application and all supporting material available to the public, including availability on the Internet; and

''(C) provide the public with an opportunity, for not less than 45 days, to submit comments on the application.

''(2) EXCEPTION.—

''(A) IN GENERAL.—The Secretary may withhold information in an application from public dissemination to protect a trade secret (not including any information disclosing the results of testing to determine whether the genetically engineered food is safe) if—

''(i) the information is exempt from disclosure under section 522 of title 5, United States Code, or applicable trade secret law;

''(ii) the applicant—

''(I) identifies with specificity the trade secret information in the application; and

''(II) provides the Secretary with a detailed justification for each trade secret claim; and

''(iii) the Secretary—

''(I) determines that the information qualifies as a trade secret subject to withholding from public dissemination; and

''(II) makes the determination available to the public.

''(B) RISK ASSESSMENT INFORMATION.—This paragraph does not apply to information that assesses risks from the release into the environment of a genetically engineered animal (including any environmental assessment or environmental impact statement performed to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)).

''(d) DENIAL OF APPLICATION.—Under section 512(d)(1), the Secretary shall deny an application if—

''(1) the environmental assessment for a genetically engineered animal is not adequate; or

''(2) the plan to eliminate or mitigate the potential environmental effects to the environment from the release of the genetically engineered animal does not adequately protect the environment.

''(e) ENVIRONMENTAL ASSESSMENT.—

''(1) IN GENERAL.—Before determining whether to approve an application under section 512 for approval of a genetic engineering technique intended to be used to produce an animal, or of a genetically engineered animal, the Secretary shall—

''(A) conduct an environmental assessment to evaluate the potential effects of such a genetically engineered animal on the environment; and

''(B) determine that the genetically engineered animal will not have an unreasonable adverse effect on the environment.

''(2) CONSULTATION.—In conducting an environmental assessment under paragraph (1), the Secretary shall—

''(A) consult, as appropriate, with the Department of Agriculture, the United States Fish and Wildlife Service, and any other Federal agency that has expertise relating to the animal species that is the subject of the application; and

''(B) disclose the results of the consultation in the environmental assessment.

''(f) SAFETY DETERMINATION.—In determining the safety of a genetic engineering technique or genetically engineered animal, the Secretary shall consider the potential effects of the genetically engineered animal on the environment, including the potential effect on nongenetically engineered animals.

''(g) PROGENY.—If an application for approval of a genetic engineering technique to produce an animal of a species or other taxonomic classification, or genetically engineered animal, has been approved, no additional application shall be required for animals of that species or other taxonomic classification produced using that genetic engineering technique or for the progeny of that genetically engineered animal.

''(h) SCOPE OF APPROVAL.—The scope of the genetic engineering technique that the Secretary may approve shall be limited to the precise procedures described in the application for approval.

''(i) CONDITIONS OF APPROVAL.—The Secretary may require as a condition of approval of an application that any producer of a genetically engineered animal that is the subject of the application—

''(1) take specified actions to eliminate or mitigate any potential harm to the environment that would be caused by a release of the genetically engineered animal, including actions specified in the plan submitted by the applicant; and

''(2) conduct post-approval monitoring for environmental effects of any release of the genetically engineered animal.

''(j) RECALL; SUSPENSION OF APPROVAL.—

''(1) RECALL.—The Secretary may order a recall of any genetically engineered animal (whether or not the genetically engineered animal, or a genetic engineering technique used to produce the genetically engineered animal, has been approved) that the Secretary determines is harmful to—

''(A) humans;

''(B) the environment;

''(C) any animal that is subjected to a genetic engineering technique; or

''(D) any animal that is not subjected to a genetic engineering technique.

''(2) SUSPENSION OF APPROVAL.—If the Secretary determines that a genetically engineered animal is harmful to the health of humans or animals or to the environment, the Secretary may—

''(A) immediately suspend the approval of application for the genetically engineered animal;

''(B) give the applicant prompt notice of the action; and

''(C) afford the applicant an opportunity for an expedited hearing.

''(k) RESCISSION OF APPROVAL.—

''(1) RECONSIDERATION.—On the motion of any person, or on the Secretary's own motion, the Secretary may reconsider an approval of a genetic engineering technique or genetically engineered animal on the basis of information that was not available during an earlier review.

''(2) FINDING FOR RECONSIDERATION.—The Secretary shall conduct a reconsideration on the basis of the information described in paragraph (1) if the Secretary finds that the information—

''(A) is scientifically credible;

''(B) represents significant information that was not available before the approval; and

''(C)(i) suggests potential impacts relating to the genetically engineered animal that were not considered before the approval; or

''(ii) demonstrates that the information considered before the approval was inadequate for the Secretary to make a safety finding.

''(3) INFORMATION FROM THE PRODUCER.—

''(A) IN GENERAL.—In conducting the reconsideration, the Secretary may require the producer to provide, within a reasonable period of time specified by the Secretary, information needed to facilitate the reconsideration.

''(B) INFORMATION NOT PROVIDED.—If a producer fails to provide information required under subparagraph (A) within the period specified by the Secretary, the Secretary shall take 1 or more of the actions described in paragraph (5).

''(4) DETERMINATION.—After reviewing the information by the petitioner and the producer, the Secretary shall issue a determination that—

''(A) revises the finding made in connection with the approval with respect to the safety of the genetically engineered animal; or

''(B) states that, for reasons stated by the Secretary, no revision of the finding is needed.

''(5) ACTION BY THE SECRETARY.—If, based on a review under this subsection, the Secretary determines that the genetically engineered animal is not safe, the Secretary shall—

''(A) rescind the approval of the genetic engineering technique or genetically engineered animal for introduction into interstate commerce;

''(B) recall the genetically engineered animal; or

''(C) take such other action as the Secretary determines to be appropriate.

''(l) ANIMALS USED IN DEVELOPMENT.—An animal that is used in connection with an investigation intended to support approval of an application under section 512 and this section or that is otherwise used in connection with the development of a genetic engineering technique or production of a genetically engineered animal for which approval is sought shall be deemed unsafe for the purposes of sections 501(a)(5) and 402(a)(2)(C)(ii) unless—

''(1) the applicant submits information required by the Secretary that addresses the food safety of the animal;

''(2) the Secretary publishes the information in the Federal Register and provides a public comment period of not less than 60 days; and

''(3) based on the information provided under paragraph (1), any public comment, and other information available to the Secretary, the Secretary—

''(A) makes a determination that the animal is safe; and

''(B) publishes the determination in the Federal Register and on the Internet.''.

SEC. 6. PROHIBITED ACTS.

(a) UNLAWFUL USE OF TRADE SECRET INFORMATION.—Section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)) is amended in the first sentence—

(1) by inserting ''421,'' after ''414,''; and

(2) by inserting ''512A,'' after ''512,''.

(b) ADULTERATED FOOD.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

''(i) GENETICALLY ENGINEERED ANIMALS.—If it is a genetically engineered animal, or is a genetically engineered animal produced using a genetic engineering technique, that is not approved under sections 512 and 512A.

''(j) GENETICALLY ENGINEERED FOODS.—

''(1) IN GENERAL.—If it is a genetically engineered food, or is a genetically engineered food produced using a genetic engineering technique, that is not approved under section 421.

''(2) SPLIT USE FOODS.—If it is a split use food that does not maintain proper segregation as required under regulations promulgated under section 421.''.

SEC. 7. TRANSITION PROVISION.

(a) IN GENERAL.—A genetic engineering technique, genetically engineered animal, or genetically engineered food that entered interstate commerce before the date of enactment of this Act shall not require approval under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), but shall be considered to have been so approved, if—

(1) the producer, not later than 90 days after the date of enactment of this Act, submits to the Secretary—

(A) a notice stating that the genetic engineering technique, genetically engineered animal, or genetically engineered food entered interstate commerce before the date of enactment of this Act, providing such information as the Secretary may require; and

(B) a request that the Secretary conduct a review of the genetic engineering technique, genetically engineered animal, or genetically engineered food under subsection (b); and

(2) the Secretary does not issue, on or before the date that is 2 years after the date of enactment of this Act, a notice under subsection (b)(2) that an application for approval is required.

(b) REVIEW BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 21 months after the date on which the Secretary receives a notice and request for review under subsection (a), the Secretary shall review all relevant information in the possession of the Secretary, all information provided by the producer, and other relevant public information to determine whether a review of new scientific information is necessary to ensure that the genetic engineering technique, genetically engineered animal, or genetically engineered food is safe.

(2) NOTICE THAT APPLICATION IS REQUIRED.—If the Secretary determines that new scientific information is necessary to determine whether a genetic engineering technique, genetically engineered animal, or genetically engineered food is safe, the Secretary, not later than 2 years after the date of enactment of this Act, shall issue to the producer a notice stating that the producer is required to submit an application for approval of the genetic engineering technique, genetically engineered animal, or genetically engineered food under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(c) FAILURE TO SUBMIT APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a genetically engineered animal or genetically engineered food with respect to which the Secretary issues a notice that an application is required under subsection (b)(2) shall be considered adulterated under section 402 or 501, as the case may be, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 351) unless—

(A) not later than 45 days after the producer receives the notice, the producer submits an application for approval; and

(B) the Secretary approves the application.

(2) PENDING APPLICATION.—A genetically engineered animal or genetically engineered food with respect to which the producer submits an application for approval shall not be considered to be adulterated during the pendency of the application.

SEC. 8. GENETICALLY ENGINEERED CROPS.

To the maximum extent practicable, the Secretary of Agriculture shall ensure that standards for the regulation of genetically engineered field test crops to prevent cross-pollenation with non-genetically engineered crops and prevent adverse effects on the environment are based on the most recent scientific knowledge available.

SEC. 9. REPORTS.

(a) IN GENERAL.—Not later than 2 years, 4 years, and 6 years after the date of enactment of this Act, the Secretary and the heads of other Federal agencies, as appropriate, shall jointly submit to Congress a report on genetically engineered animals, genetically engineered foods, and genetic engineering techniques.

(b) CONTENTS.—A report under subsection (a) shall contain—

(1) information on the types and quantities of genetically engineered foods being offered for sale or being developed, domestically and internationally;

(2) a summary (including discussion of new developments and trends) of the legal status and acceptability of genetically engineered foods in major markets, including the European Union and Japan;

(3) information on current and emerging issues of concern relating to genetic engineering techniques, including issues relating to—

(A) the ecological impact of, antibiotic markers for, insect resistance to, nongerminating or terminator seeds for, or cross-species gene transfer for genetically engineered foods;

(B) foods from genetically engineered animals;

(C) nonfood crops (such as cotton) produced using a genetic engineering technique; and

(D) socioeconomic concerns (such as the impact of genetically engineered animals and genetically engineered foods on small farms);

(4) a response to, and information concerning the status of implementation of, the recommendations contained in the reports entitled ''Genetically Modified Pest Protected Plants'', ''Environmental Effects of Transgenic Plants'', ''Animal Biotechnology Identifying Science-Based Concerns'', and ''Biological Containment of Genetically Engineered Organisms (2004)'', issued by the National Academy of Sciences;

(5) an assessment of the need for data relating to genetically engineered animals and genetically engineered foods;

(6) a projection of—

(A) the number of genetically engineered animals, genetically engineered foods, and genetic engineering techniques that will require regulatory review during the 5-year period following the date of the report; and

(B) the adequacy of the resources of the Food and Drug Administration; and

(7) an evaluation of the national capacity to test foods for the presence of genetically engineered ingredients in food.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act and the amendments made by this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 382—AUTHORIZING THE TAKING OF A PHOTOGRAPH IN THE CHAMBER OF THE UNITED STATES SENATE

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 382

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken of Members of the United States Senate on June 22, 2004.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefore, which arrangements shall provide for a minimum of disruption to Senate proceedings.

SENATE CONCURRENT RESOLUTION 119—RECOGNIZING THAT PREVENTION OF SUICIDE IS A COMPELLING NATIONAL PRIORITY

Mr. CAMPBELL (for himself, Mr. DODD, Mr. SMITH, Mr. REID, Mr. DAYTON, and Mr. DEWINE) submitted the following concurrent resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. CON. RES. 119

Whereas suicide is one of the most disruptive and tragic events a family and a community can experience, and it occurs at a national rate of 30,000 suicides annually;

Whereas suicide is the fastest growing cause of death among youths and the second leading cause of death among college students;

Whereas suicide kills youths 6 to 9 times more often than homicide;

Whereas research shows that 95 percent of all suicides are preventable;

Whereas research shows that the prevention of suicide must be recognized as a national priority;

Whereas community awareness and education will encourage the development of strategies to prevent suicide;

Whereas during the 105th Congress, both the Senate and the House of Representatives unanimously agreed to resolutions recognizing suicide as a national problem and declaring suicide prevention programs to be a national priority (Senate Resolution 84, 105th Congress, agreed to May 6, 1997, and House of Representatives Resolution 212, 105th Congress, agreed to October 9, 1998);

Whereas the yellow ribbon is rapidly becoming recognized internationally as the symbol for the awareness and prevention of suicide, and it is recognized and used by suicide prevention groups, crisis centers, schools, churches, youth centers, hospitals, counselors, teachers, parents, and especially youth themselves; and

Whereas the week beginning September 19, 2004, should be recognized as Yellow Ribbon Suicide Awareness and Prevention Week: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes that the need to increase awareness about and prevent suicide is a compelling national priority;

(2) reaffirms the commitment of Congress to the priorities expressed by the 105th Congress, in Senate Resolution 84 and House Resolution 212, to continue to recognize suicide prevention as a national priority; and

(3) encourages Americans, communities, and the Nation to work to increase awareness about and prevent suicide.

Mr. CAMPBELL. Mr. President, today I am proud to be joined by 5 of my colleagues in submitting a resolution declaring the week of September 19, 2004, as Yellow Ribbon Suicide Awareness and Prevention Week dedicated to raising awareness about suicide and suicide prevention programs.

Suicide is a national tragedy that impacts the lives of millions of American families. According to the Centers for Disease Control and Prevention (CDC), suicide is the eleventh leading cause of all deaths in America, and the third such cause of death for young folks ages 10 to 24. And, unfortunately, Colorado has one of the highest suicide rates in the Nation.

Research shows that 95 percent of all suicides are preventable, and at the local, State, and Federal level, suicide prevention programs are becoming an important priority. On the Federal level, for example, the Department of Health and Human Services recently developed the National Strategy for Suicide Prevention.

One suicide prevention program, that has saved more than 2,500 lives is the Yellow Ribbon Suicide Prevention Program, founded in 1994 by Coloradans Dale and Dar Emme after their son, Mike, tragically took his own life. The program encourages youngsters, parents, and teachers to talk about suicide and emphasizes the use of a ''link'' card which young folks can carry with them and give to a friend, parent, or teacher if they are in need of assistance.

With local programs throughout the United States and programs in 47 countries, the Yellow Ribbon Suicide Prevention Program is used by crisis centers, schools, churches, and youth centers. And, the Yellow Ribbon Suicide Prevention Program has the endorsement of various State health departments and various State education departments and the American Osteopathic Association. And, the yellow ribbon has become the international symbol for suicide prevention and awareness.

I believe that community-based efforts and programs like the Yellow Ribbon Suicide Prevention Program, as well as attentive parents, teachers, and friends can make all the difference to someone who is desperate but does not know how to ask for help or where to turn.

Let's work together to make suicide prevention a national priority.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3453. Mr. WARNER proposed an amendment to amendment SA 3354 proposed by Mr. REED to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes.

SA 3454. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3455. Mr. MCCONNELL (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3456. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, supra; which was ordered to lie on the table.

SA 3457. Mr. BURNS (for himself and Mr. ENSIGN) proposed an amendment to amendment SA 3235 proposed by Mr. BROWNBACK to the bill S. 2400, supra.

TEXT OF AMENDMENTS

SA 3453. Mr. WARNER proposed an amendment to amendment SA 3354 proposed by Mr. REED to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

In the matter proposed to be inserted, strike subsections (a) and (b) and insert the following:

(a) TESTING CRITERIA.—Not later than February 1, 2005, the Secretary of Defense, in consultation with the Director of Operational Test and Evaluation, shall prescribe appropriate criteria for operationally realistic testing of fieldable prototypes developed under the ballistic missile defense spiral development program. The Secretary shall submit a copy of the prescribed criteria to the congressional defense committees.

(b) USE OF CRITERIA.—(1) The Secretary of Defense shall ensure that, not later than October 1, 2005, a test of the ballistic missile defense system is conducted consistent with the criteria prescribed under subsection (a).

(2) The Secretary of Defense shall ensure that each block configuration of the ballistic missile defense system is tested consistent with the criteria prescribed under subsection (a).

(c) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed to exempt any spiral development program of the Department of Defense, after completion of the spiral development, from the applicability of any provision of chapter 144 of title 10, United States Code, or section 139, 181, 2366, 2399, or 2400 of such title in accordance with the terms and conditions of such provision.

SA 3454. Mr. ALEXANDER submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 127, between the matter following line 5 and line 6, insert the following:

SEC. 621. RELATIONSHIP BETWEEN ELIGIBILITY TO RECEIVE SUPPLEMENTAL SUBSISTENCE ALLOWANCE AND ELIGIBILITY TO RECEIVE IMMINENT DANGER PAY, FAMILY SEPARATION ALLOWANCE, AND CERTAIN FEDERAL ASSISTANCE.

(a) ENTITLEMENT NOT AFFECTED BY RECEIPT OF IMMINENT DANGER PAY AND FAMILY SEPARATION ALLOWANCE.—Subsection (b)(2) of section 402a of title 37, United States Code, is amended by striking subparagraph (A) and inserting the following:

''(A) shall not take into consideration—

''(i) the amount of the supplemental subsistence allowance that is payable under this section;

''(ii) the amount of special pay (if any) that is payable under section 310 of this section, relating to duty subject to hostile fire or imminent danger; or

''(iii) the amount of family separation allowance (if any) that is payable under section 427 of this title; but''.

(b) ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—Section 402a of such title is amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection (g):

''(g) ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—(1)(A) A child or spouse of a member of the armed forces receiving the supplemental subsistence allowance under this section who, except for the receipt of such allowance, would otherwise be eligible to receive a benefit described in subparagraph (B) shall be considered to be eligible for that benefit.

''(B) The benefits referred to in subparagraph (A) are as follows:

''(i) Assistance provided under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

''(ii) Assistance provided under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

''(iii) A service under the Head Start Act (42 U.S.C. 9831 et seq.).

''(iv) Assistance under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.).

''(2) A household that includes a member of the armed forces receiving the supplemental subsistence allowance under this section and, except for the receipt of such allowance, would otherwise be eligible to receive a benefit under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be eligible for that benefit.''.

(c) REQUIREMENT FOR REPORT.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the committees of Congress named in paragraph (2) a report on the accessibility of social services to members of the Armed Forces and their families. The report shall include the following matters:

(A) The social services for which members of the Armed Forces and their families are eligible under social services programs generally available to citizens and other nationals of the United States.

(B) The extent to which members of the Armed Forces and their families utilize the social services for which they are eligible under the programs identified under subparagraph (A).

(C) The efforts made by each of the military departments—

(i) to ensure that members of the Armed Forces and their families are aware of the social services for which they are eligible under the programs identified under subparagraph (A); and

(ii) to assist members and their families in applying for and obtaining such social services.

(2) The committees of Congress referred to in paragraph (1) are as follows:

(A) The Committee on Armed Services and the Committee on Health, Education, Labor, and Pensions of the Senate.

(B) The Committee on Armed Services of the House of Representatives.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on October 1, 2004.

(2) Subsection (c) shall take effect on the date of the enactment of this Act.

SA 3455. Mr. MCCONNELL (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 164, after line 18, insert the following:

SEC. 816. SENSE OF THE SENATE ON EFFECTS OF COST INFLATION ON THE VALUE RANGE OF THE CONTRACTS TO WHICH A SMALL BUSINESS CONTRACT RESERVATION APPLIES.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) in the administration of the requirement for reservation of contracts for small businesses under subsection (j) of section 15 of the Small Business Act (15 U.S.C. 644), the maximum amount in the contract value range provided under that subsection should be treated as being adjusted to the same amount to which the simplified acquisition threshold is increased whenever such threshold is increased under law; and

(2) the Administrator of the Small Business Administration, in consultation with the Federal Acquisition Regulatory Council, should ensure that appropriate governmentwide policies and procedures are in place—

(A) to monitor socioeconomic data concerning purchases made by means of purchase cards or credit cards issued for use in transactions on behalf of the Federal Government; and

(B) to encourage the placement of a fair portion of such purchases with small businesses consistent with governmentwide goals for small business prime contracting established under section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

(b) SIMPLIFIED ACQUISITION THRESHOLD DEFINED.—In this section, the term ''simplified acquisition threshold'' has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

SA 3456. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; which was ordered to lie on the table; as follows:

On page 158, between lines 6 and 7, insert the following:

SEC. 805. REVISION AND EXTENSION OF AUTHORITY FOR ADVISORY PANEL ON REVIEW OF GOVERNMENT PROCUREMENT LAWS AND REGULATIONS.

(a) RELATIONSHIP OF RECOMMENDATIONS TO SMALL BUSINESSES.—Section 1423 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 106–136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

''(d) ISSUES RELATING TO SMALL BUSINESSES.—In developing recommendations under subsection (c)(2), the panel shall—

''(1) consider the effects of its recommendations on small business concerns; and

''(2) include any recommended modifications of laws, regulations, and policies that the panel considers necessary to enhance and ensure competition in contracting that affords small business concerns meaningful opportunity to participate in Federal Government contracts.''.

(b) REVISION AND EXTENSION OF REPORTING REQUIREMENT.—Section 1423(d) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended—

(1) by striking ''one year after the establishment of the panel'' and inserting ''one year after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2005'';

(2) by striking ''Services and'' both places it appears and inserting ''Services,'';

(3) by inserting '', and Small Business'' after ''Government Reform''; and

(4) by inserting '', and Small Business and Entrepreneurship'' after ''Governmental Affairs''.

SA 3457. Mr. BURNS (for himself and Mr. ENSIGN) proposed an amendment to amendment SA 3235 proposed by Mr. BROWNBACK to the bill S. 2400, to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Services, and for other purposes; as follows:

At the end of the amendment, add the following:

SEC. ADDITIONAL FACTORS IN INDECENCY PENALTIES; EXCEPTION.

Section 503(b)(2) of the Communications Act of 1934 (47 U.S.C. 503(b)(2)), as amended by section 102 of this Act, is further amended by adding at the end the following:

''(F) In the case of a violation in which the violator is determined by the Commission under paragraph (1) to have uttered obscene, indecent, or profane material, the Commission shall take into account, in addition to the matters described in subparagraph (E), the following factors with respect to the degree of culpability of the violator:

''(i) Whether the material uttered by the violator was live or recorded, scripted or unscripted.

''(ii) Whether the violator had a reasonable opportunity to review recorded or scripted programming or had a reasonable basis to believe live or unscripted programming would contain obscene, indecent, or profane material.

''(iii) If the violator originated live or unscripted programming, whether a time delay blocking mechanism was implemented for the programming.

''(iv) The size of the viewing or listening audience of the programming.

''(v) The size of the market.

''(vi) Whether the violation occurred during a children's television program (as such term is used in the Children's Television Programming Policy referenced in section 73.4050(c) of the Commission's regulations (47 C.F.R. 73.4050(c)) or during a television program rated TVY, TVY7, TVY7FV, or TVG under the TV Parental Guidelines as such ratings were approved by the Commission in implementation of section 551 of the Telecommunications Act of 1996, Video Programming Ratings, Report and Order, CS Docket No. 97–55, 13 F.C.C. Rcd. 8232 (1998)), and, with respect to a radio broadcast station licensee, permittee, or applicant, whether the target audience was primarily comprised of, or should reasonably have been expected to be primarily comprised of, children.

''(G) The Commission may double the amount of any forfeiture penalty (not to exceed $550,000 for the first violation, $750,000 for the second violation, and $1,000,000 for the third or any subsequent violation not to exceed up to $3,000,000 for all violations in a 24 hour time period notwithstanding section 503(b)(2)(C)) if the Commission determines additional factors are present which are aggravating in nature, including—

''(i) whether the material uttered by the violator was recorded or scripted;

''(ii) whether the violator had a reasonable opportunity to review recorded or scripted programming or had a reasonable basis to believe live or unscripted programming would contain obscene, indecent, or profane material;

''(iii) whether the violator failed to block live or unscripted programming;

''(iv) whether the size of the viewing or listening audience of the programming was substantially larger than usual, such as a national or international championship sporting event or awards program;

''(v) whether the obscene, indecent or profane language was within live programming not produced by the station licensee or permittee; and

''(vi) whether the violation occurred during a children's television program (as defined in subparagraph (F)(vi)).''.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON FORESTRY, CONSERVATION, AND RURAL REVITALIZATION

Mr. COCHRAN. Mr. President, I announce that the Subcommittee on Forestry, Conservation and Rural Revitalization of the Committee on Agriculture, Nutrition, and Forestry will conduct a hearing on June 24, 2004 in SD–562 at 9:30 a.m. The purpose of this hearing will be to Review the Implementation of the Healthy Forest Restoration Act.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will be held on Thursday, June 24, 2004 at 2:30 p.m. in Room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on S. 2543, to establish a program and criteria for National Heritage Areas in the United States, and for other purposes.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161 or Sarah Creachbaum at (202) 224–6293.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. KYL. 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 Thursday, June 17, 2004, at 10 a.m. to conduct a hearing on ''An Overview of the Regulation of the Bond Markets.''

Concurrent with the hearing, the Committee intends to vote on the nomination of the Honorable Alan Greenspan to be Chairman of the Board of Governors of the Federal Reserve System; on S. 894, ''The Marine Corps 230th Anniversary Commemorative Coin Act''; and S. 976, ''The Jamestown 400th Anniversary Commemorative Coin Act of 2003.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on June 17, 2004, at 9:30 a.m. on Enhancing Border Security.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, June 17, at 10 a.m. to receive testimony regarding the Environmental Management Program of the Department of Energy and Issues associated with accelerated cleanup.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 17, 2004, at 9:30 a.m. to hold a hearing on Law Enforcement Treaties.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 17, 2004, at 2 p.m. to hold a hearing on Nominations.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 17, 2004, at 3 p.m. to hold a hearing on Nominations.

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

COMMITTEE ON THE JUDICIARY

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, June 17, 2004, at 9:30 a.m. in Dirksen Senate Building Room 226.

Agenda

I. Nominations: Henry W. Saad, to be U.S. Circuit Judge for the Sixth Circuit; and Claude A. Allen to be U.S. Circuit Judge for the Fourth Circuit.

II. Legislation: S. 1735, Gang Prevention and Effective Deterrence Act of 2003 Hatch, Feinstein, Grassley, Graham, Chambliss, Cornyn, Schumer, Biden; S. 1635, L–1 Visa Intracompany Transferee, Reform Act of 2003 Chambliss; S. 2013, Satellite Home Viewer Extension Act of 2004 Hatch, Leahy, DeWine, Kohl; S.J. Res. 4, Proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States Act of 2003 Hatch, Feinstein, Craig, Sessions, DeWine, Grassley Graham, Cornyn, Specter, Chambliss; S. 1700, Advancing Justice through DNA Technology Act of 2003 Hatch, Biden, Specter, Leahy, DeWine, Feinstein, Kennedy, Schumer, Durbin and Kohl; S. Res. 322, A resolution designating August 16, 2004, as ''National Airborne Day'' of 2004 Hagel, Durbin, Graham, Hatch; S. Res. 370, A resolution designating September 7, 2004, as ''National Attention Deficit Disorder Awareness Day'' of 2004 Cantwell; and S. 2396, Federal Courts Improvement Act of 2004 Hatch, Leahy, Chambliss, Durbin, Schumer, Clinton

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs be authorized to meet on Thursday, June 17, 2004, at 9 a.m., for a hearing entitled ''Buyer Beware: The Danger of Purchasing Pharmaceuticals Over the Internet.''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. KYL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on June 17, 2004, at 2:30 p.m. to hold a closed hearing on Intelligence Matters.

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

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. KYL. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space be authorized to meet on Thursday, June 17, 2004, at 2:30 p.m. on the Final Report on the President's Commission on Implementation of U.S. Space Exploration Policy.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. KYL. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, June 17, at 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 2513, a bill to authorize the Secretary of the Interior to provide financial assistance to the Eastern New Mexico Rural Water Authority for the planning, design, and construction of the Eastern New Mexico rural water system, and for other purposes; S. 2511, a bill to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, NM, and for other purposes; S. 2508, a bill to redesignate the Ridges Basin Reservoir, CO, as Lake Nighthorse; S. 2460, a bill to provide assistance to the State of New Mexico for the development of comprehensive state water plans, and for other purposes; and S. 1211, a bill to further the purposes of Title XVI of the Reclamation Projects Authorization and Adjustment Act of 1992, the ''Reclamation Wastewater and Groundwater Study and Facilities Act'', by directing the Secretary of the Interior to undertake a demonstration program for water reclamation in the Tularosa Basin of New Mexico, and for other purposes.

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

PRIVILEGES OF THE FLOOR

Mr. HARKIN. I ask unanimous consent that Peter McElligott of my staff be granted floor privileges during today's debate.

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

Mr. ALLARD. Mr. President, I ask unanimous consent that Colin Woodall, a member of Senator CORNYN's staff, be granted the privilege of the floor during the course of the debate on the Defense authorization bill, S. 2400.

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

Mr. REED. Mr. President, I ask unanimous consent that Gabrielle Chapin and Dr. Harsh Trivedi, fellows in my office, be granted floor privileges during the debate on S. 2400.

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

Mr. REID. Mr. President, I ask unanimous consent that Steve Beasley, a fellow with the Finance Committee, be granted the privileges of the floor during consideration of the Defense bill.

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

Mr. SESSIONS. I ask unanimous consent that Brian Goodwin of my staff be granted floor privileges for the remainder of debate on this important issue.

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

Mrs. CLINTON. Mr. President, I ask unanimous consent that Paul Paolozzi, a fellow in my office, be granted the privilege of the floor for the remainder of the consideration of this bill.

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

AFRICAN GROWTH AND OPPORTUNITY ACT

Mr. FRIST. Mr. President, in a few moments, we will be closing for the evening after a very productive day, but before doing that, I wish to make a few comments on an issue that is very close to my heart, and it concerns the wonderful continent of Africa.

I have had the opportunity to work for periods of time in Africa as part of my former profession—medicine—and as part of medical mission work. Indeed, in the last year, I had the opportunity to travel to Africa, to the Sudan where I have really been able to capture what I love so much in delivering health care. I was in Kenya, Mozambique, Botswana, South Africa, and Namibia this past year. So, obviously, I am speaking about a continent that is close to me.

As I traveled through Africa, whether doing medical mission work or as a Senator on the part of official delegations, I have had the opportunity to observe the huge impact legislation that was passed in this Chamber now 4 years ago has had. It is called the African Growth and Opportunity Act, which is a critical trade measure that has benefited thousands and thousands of Africans and given them hope and an outlet for productive activity which paints a much brighter future. It is a trade measure that helps Africans, it helps the United States, and I believe strongly it helps all of humanity.

Congress passed the African Growth and Opportunity Act 4 years ago with strong bipartisan support in this body. It was signed into law by President Clinton. Since that time, it has created about 150,000 new jobs and maybe even more than that. President Museveni from Uganda was in my office 2 days ago, and he believes 150,000 is an underestimate; the real figure may be more like 250,000 or 300,000 jobs.

Investors, because of this act, have poured about $340 million in new private investment into Africa, and because of this investment in Africa, there have been new opportunities for U.S. businesses.

The African Growth and Opportunity Act—most people know it as AGOA—has given many countries in the continent—and not all have taken advantage of it, but many have—an opportunity to compete on a more level playing field with nations throughout the world, such as China.

The reason I come to the floor of the Senate tonight to take a few minutes is because these gains could be lost if this body does not act on what we call the AGOA Acceleration Act of 2004. This act has a lot of provisions. It has just been introduced in the Senate, but several provisions, if we do not act in this current bill, are set to expire in September of this year and, thus, that is why we need to act now, or act in the very near future. Hundreds of millions of dollars of investments in the continent of Africa are at stake, and hundreds of thousands of Africans, many of whom are living in the poorest parts of the world, could lose their jobs.

So I hope my colleagues—and I have had the opportunity to talk to a number of them over the course of today and yesterday—will work together collectively so we can move this very important bill forward. The bill has the strong support of this administration and the strong support of both sides of the aisle.

I spoke with the Democratic leader about the bill, and I know that he feels very strongly about it as well. It was approved by the House of Representatives last week by voice vote. I encourage my colleagues to both look at and support this important bill. It will make a huge difference in the lives of Africans. I hope we can address that bill in the near future.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nomination on today's Executive Calendar, Alan Greenspan, which was reported by the Banking Committee today. I further ask unanimous consent that the nomination be confirmed, the motion 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 nomination considered and confirmed is as follows:

FEDERAL RESERVE SYSTEM

Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

Mr. REID. Mr. President, today the Senate has confirmed the nomination of Alan Greenspan to continue for yet another term as chairman of the Federal Reserve Board. While I did not force the Senate to take a rollcall vote on the matter, I do want to make it clear for the record that had such a vote been taken, I would have opposed Mr. Greenspan's confirmation.

I hold Chairman Greenspan in high regard as a dedicated public servant; however, I am concerned that the economic objectives that Mr. Greenspan aims to advance all too often come at the expense of Americans who are too young, too old, or too poor to belong to the investor class. During earlier years of his tenure, I worried that his slow-growth, high-interest manipulation of monetary policy hurt American workers. This year, my concerns about his decisions as Chairman grew to alarm. I was stunned to read that Mr. Greenspan supported the President's tax cuts for the wealthiest people and corporations among us, while at the same time predicting that growing Federal budget deficits and the retirement of baby boomers would require cuts in Social Security and Medicare. It was particularly shocking given his enthusiastic support for deficit reduction during the Clinton administration.

Our economy is becoming deeply and disturbingly stratefied, and it is eating away at our country. Our fiscal policy and the monetary policy that Chairman Greenspan has steered have created a gulf separating the haves and have-nots in America, a gulf so wide that it seems like even a lifetime of dedicated and hard work can no longer guarantee Americans a ticket into the middle class. I worry that if we do not try to correct our economic policy and return it to a fairer and more just course, we will not be holding true to our promise of affording opportunity to everyone.

I am pleased to see that at last the economy is beginning to show signs of growth and job creation. However, it is essential that we pay attention to whether that prosperity is shared by more than just a small handful of people occupying the top rungs of our economic ladder. We need to make sure that our economic prosperity doesn't come at the expense of elderly people depending on Social Security or young people trying to get a start in the job market. I believe that we need someone at the helm of the Federal Reserve who gives these matters the regard that they deserve.

LEGISLATIVE SESSION

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

AUTHORIZING TAKING OF A PHOTOGRAPH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 382, submitted by Senators FRIST and DASCHLE earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 382) authorizing the taking of a photograph in the Chamber of the United States Senate.

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

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, 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. 382) was agreed to, as follows:

S. RES. 382

Resolved, That paragraph 1 of rule IV of the Rules for the Regulation of the Senate Wing of the United States Capitol (prohibiting the taking of pictures in the Senate Chamber) be temporarily suspended for the sole and specific purpose of permitting an official photograph to be taken of Members of the United States Senate on June 22, 2004.

SEC. 2. The Sergeant at Arms of the Senate is authorized and directed to make the necessary arrangements therefore, which arrangements shall provide for a minimum of disruption to Senate proceedings.