The Senate met at 12 noon and was called to order by the President pro tempore [Mr. BYRD].

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

Dear Father, we return to the work of this busy month ahead with the words and the music of the Independence Day celebration sounding in our souls. Now that the fireworks are over, work in us the fire of patriotism that has been the secret of truly great leaders throughout our history. We pray for the women and men of this Senate. Enlarge their hearts until they are big enough to contain the gift of Your spirit; expand their minds until they are capable of thinking Your thoughts; deepen their mutual trust so that they can work harmoniously for what is best for this Nation. You know all the legislation to be debated and voted on before the August recess. Grant the Senators a profound trust in You, a deep desire to seek Your will, and an unlimited supply of Your supernatural strength.

With renewed interdependence and deep dependence on You as fellow patriots, galvanize the Senators in the spirit of our founders expressed in their reliance on You and the pledge of their lives, fortunes, and their sacred honor for the next stage of Your strategy for America. You are our Lord and Saviour. Amen.

Pledge of Allegiance

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

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

Reservation of Leader Time

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

MORNING BUSINESS

The President pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 1 o'clock p.m. with Senators permitted to speak therein for up to 10 minutes each.

Recognition of the Acting Majority Leader

The President pro tempore. The Senator from Nevada is recognized.

Schedule

Mr. REID. Mr. President, as the Chair announced, we are going to be in morning business until 1 p.m. At 1 p.m. the Senate will begin consideration of the supplemental appropriations bill under the previous order which calls for amendments to be offered prior to 6 p.m.

Over 40 amendments have been filed. I hope and guess that probably all of those will not be offered before 6 o'clock. But I would say to the Chair that I hope Senators will come to the floor and offer those amendments, debate them, so arrangements can be made as to whether the managers will accept the amendments or whether a time will be set in the future for votes. It is the leader's expectation we will finish this bill tomorrow. There are other appropriations bills we would like to finish this week also. In fact, the leader has every desire to finish the Interior appropriations bill and the supplemental bill this week. We will hear more from the leader at a subsequent time. But these are the two bills we must finish this week, and if we can finish them Thursday, that will be fine.

I am sure, if we can't, the leader will want to go into Friday to complete the bills, or if it takes longer than that. I think they are both capable of being finished very quickly.

There are no rollcall votes today.

Bipartisan Patients' Bill of Rights

Mr. REID. Mr. President, before we adjourned for the recess, the Senate passed the bipartisan McCain-Kennedy-Edwards Patients' Bill of Rights and proved that protecting patients' rights is not a partisan issue. We can all be proud of the strong bipartisan compromises we reached which have the support of virtually every health care provider group in this country. This bill has achieved such overwhelming support because it represents a balanced approach to ensuring patient safety and health plan accountability.
This landmark legislation will ensure that every privately insured American can enjoy important patient protection. For example, the bill will ensure that patients can have access to emergency room care; women can easily access OB/GYN services; children can access the specialty care they need; patients can access the prescription drugs prescribed for them; patients can participate in lifesaving clinical trials; patients can access necessary specialists, even if it means going out of the plan’s provider network; chronically ill patients can receive the specialty care they need in an attempt to save their lives; patients with ongoing health care needs have continuity of care; and patients can hold their managed care plan accountable when plan decisions to withhold or limit care result in injury or death.

When I went home this past week people said, What does the bill do? Briefly, it is very old-fashioned in nature. It allows a doctor to render care that that doctor believes is appropriate to take care of that patient, whether it be prescribing drugs, whether it be surgery or other treatment. That is what the bill does.

Passage of this bill would not have been possible without the dedication and hard work of many people. First of all, the majority leader, Mr. DASCHLE, was involved in this legislation in its formative stage and every day we were in the Chamber. I think this showed to the American public what most of us have known for many years—that Senator DASCHLE really is a great leader. He indicated we were going to finish the bill before the Fourth of July break. Some people smiled, some snickered, and some thought it would be totally impossible. But it was done. It was done with all amendments offered, Clear, Clot, was not filed. It was the way legislation should move. We spent some long hours in this Chamber, but as a result of his leadership we were able to do this work. This is an issue on which he has been working for 5 years; for 5 years we have waited to pass this meaningful and enforceable Patients’ Bill of Rights that will protect all privately insured Americans. And I say again, Senator DASCHLE was able to forge bipartisan support for this critical legislation and ensure passage as a result of his patience.

We indeed also have to acknowledge the work done by the chairman of the Health, Education, Labor, and Pensions Committee, Senator THOMAS. He was on this floor every minute of every day not only for the 2 weeks it took to pass the Patients’ Bill of Rights but for 2 weeks prior to do the education bill. He has worked on this issue longer than anyone, was able to overcome contentious amendment, and managed to keep the integrity of the bill totally intact. Senator KENNEDY did great work. It shows what a fine Senator he is. Those of us who depend on him for leadership always have this bill to look to, to indicate what a great Senate he is.

Senator KENNEDY has had wide experience. One of the leaders in this bill was his predecessor of Senator KENNEDY but who did great work: Senator Edwards of North Carolina. He proved his skill, his leadership, and his dedication to being a legislator by his work on this meaningful Patients’ Bill of Rights. He has, since he came to the Senate, been a voice for America’s patients, and I and the rest of America are grateful for his contributions to the rest of this legislation.

Finally, I extend my thanks to Senator JOHN MCCAIN from the other side of the aisle. During his run for President of the United States, Senator MCCAIN promised the American people he would work to pass a Patients’ Bill of Rights, and he did that. His name was first on this bill and he was involved as we proceeded through this legislation. He has been an extraordinary leader on this issue. Without his work, this bill would not have been possible.

It would not be fair to talk only about the proponents of this legislation. Senator JUDD GREGG did an outstanding job on this bill. He was here the entire 2 weeks. He had some difficult issues to work through. I think he did an excellent job of bringing the amendments that were meaningful to the floor at the right time. We were able to have complete and fair debate. I always had great appreciation of him.

I served with Senator GREGG when he became a Member of the House of Representatives. He left to become a two-term Governor of the State of New Hampshire. He came back—to the Senate.

I always had great respect for his ability, and certainly they were evident during the work he did on the Patients’ Bill of Rights. Even though he was on the losing side of votes on many of the amendments that were offered, he was always a gentleman and a scholar. I think he did himself and this Senate very well with his work.

The Senate-passed Patients’ Bill of Rights contains every one of the patient protections listed in President Bush’s statement of principles. I hope the House of Representatives will work toward passage of this bill and that the President will sign into law this truly bipartisan legislation that will improve the quality of life for all Americans.

The PRESIDENT pro tempore. The Chair will state the time until 12:30 p.m. will be under the control of the Senator from Illinois, Mr. DURBIN, or his designee, and from 12:30 p.m. until 1 p.m. the time will be under the control of the Senator from Wyoming, Mr. THOMAS. Mr. THOMAS.

Mr. REID. Mr. President, if the Senator from Wyoming wishes to say a few words, I am happy to yield him time under our time. How much time does the Senator want?

Mr. THOMAS. I going to ask the question the President pro tempore has already answered. Thank you.

Mr. REID. The Senator from North Dakota wishes to say a few words.

The PRESIDENT pro tempore. The Senator from North Dakota.

MEXICAN LONG-HAUL TRUCKS ON U.S. HIGHWAYS

Mr. DORGAN. Mr. President, later this week and perhaps through the summer we will have a discussion in both the Senate and the House about a very controversial issue. This administration and this Government will allow Mexican long-haul truckers to move across the border from Mexico into this country to drive their trucks on the highways and byways of this country unrestricted on the grounds that the North American Free Trade Agreement requires us to do so. However, after signing NAFTA the previous administration decided, because of serious safety concerns, not to allow the Mexican truckers to come in unrestricted on America’s highways. At the moment, we allow them to cross the border and operate only in a zone within 20 miles from the Mexican border, on short-haul trucks.

The Bush administration is now going to lift that restriction. That is going to cause some very serious controversy. I want to explain today why that is an important issue.

A San Francisco Chronicle reporter named Robert Collier recently went on a 3-day trip with a long-haul trucker in Mexico. His article in the San Francisco Chronicle is quite interesting and quite revealing. I ask unanimous consent to have it printed at the conclusion of my remarks in the RECORD.

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

(See Exhibit 1.)

Mr. DORGAN. What is this issue of Mexican trucks coming into the United States? Why is it important and why will it provoke controversy? Simply, the issue is this: We inspect just 1 to 2 percent of the Mexican trucks that come into this country and operate within the 20-mile restriction. And 36 percent of those Mexican trucks are turned back into Mexico for serious safety violations.

In other words, up to now, we have told Mexican truckers: We will not allow you to drive on American roads because you don’t meet American safety standards. Mr. President, 98 to 99 percent of the trucks were never inspected at all because we do not have nearly enough inspectors at the border. But of those that were inspected, 36 percent were turned back into Mexico for serious safety violations.

Mexico has a regime of safety issues dealing with truckers that is very lax. They are printed at the end of the article I previously mentioned. Let me run through a few of these. It says:
Hours-of-service limits for drivers: In the United States, we limit truckers to 10 hours of consecutive driving and then they must rest. That is all you can do in the United States, 10 hours. In Mexico, the sky is the limit. In fact, this week we had a lane with one Mexican long-haul trucker for 3 days. In 3 days of driving a truck, the Mexican driver slept 7 hours—7 hours in 3 days. There is no restriction on hours with respect to Mexican drivers and truckers.

Random drug tests: In the United States, yes for all drivers; in Mexico, no.

Automatic disqualification for certain medical conditions: In the United States, yes; in Mexico, no.

Standardized logbooks: In the United States, yes, and you better fill them out. In Mexico, virtually no truckers use a logbook. The new law is not enforced.

Maximum weight limit for trucks: In the United States, 80,000 pounds; in Mexico, 135,000 pounds.

The point is, under NAFTA, it has been determined that the United States should allow Mexican long-haul truckers into this country unrestricted. I wonder if you want a Mexican in your rear-view mirror on an American interstate, coming down the highway with questionable brakes, with questionable equipment, in a circumstance where over a third of all the trucks that we have inspected—and we have only inspected an infinitesimal number—over a third of them have been found to have serious safety violations.

This isn’t rocket science. Of course, we should not allow unrestricted long-haul truckers to come into this country on America’s roads; not until they meet all the requirements for safety that we require of our own trucking companies and our own drivers. This is not a hard question.

On the appropriations bill in the House of Representatives there was an amendment added that prohibits funding for permitting Mexican truckers to come into this country on an unrestricted basis. I have indicated I intend to offer a similar amendment in the Senate. I have offered stand-alone legislation which is more comprehensive than that, but it seems to me it is useful to offer language identical to that of the House because then it would be non-conferenceable and the restriction would become law when the appropriations bill is signed.

Senator Murray, the chair of the Transportation Appropriations sub-committee, talked to me and I know she is working on some language. I have not yet had an opportunity to see what that language is, but I appreciate the work she is doing. I hope when the appropriations bill leaves the Senate, we will have included similar or identical language to that in the House: language we will not allow Mexican long-haul trucks into this country on an unrestricted basis jeopardizing the safety of Americans who are driving on the roads—virtually all citizens who are driving on our roads. We do not want these safety questions to have to be in their minds.

This is a very important issue. It is one more evidence of a trade strategy that we have pursued which makes away our interests. How can we adopt a trade policy with another country that says: Oh, by the way, we will not allow anything that reflects safety issues from one side or the other to come in the way of trade?

It doesn’t make any sense to me.

This is a paramount example of trading away our ability to make safety on America’s roads something that is of significant concern. We have not gotten to the position of requiring safety equipment, driver’s logs, and hours of service restrictions just because we want to regulate; we did it out of concern for safety. When you are driving down the road and have an 18-wheel truck behind you full of tons and tons of fragile material, you want to make sure that truck has been inspected, that the truck has safety equipment, and that the truck is not going to come through the back of your car right up to the rearview mirror if you happen to put on your rearview mirror.

This is an important issue on its own. Giving up our ability to decide whether we will allow unsafe trucks to enter United States highways from Mexico is almost unforgivable. But it is part and parcel of the trade policy that has been bankrupt for a long while.

That brings me to another question about trade agreements. The administration is talking a lot now about fast-track. They want fast-track ability to do new trade agreements. I have some advice for them. I say: If you really want to fast-track something, why don’t you fast-track solving some trade problems that you, along with previous administrations, have created through signing past trade agreements. Don’t deal with Congress if you need fast-track legislative authority for anybody or anything; deal with fast-track trade solutions yourself.

Let me give you some examples of issues that the Administration might want to fast-track.

Today, in Canada, they are loading trucks and railroad cars full of molasses to bring into the United States. The molasses is loaded with Brazilian sugar. Can you imagine that? They are loaded on potato flakes. Imagine that. Poor little potato flakes to Korea. Shipping potato flakes to Korea means that there still remains on every pound of T-bone steaks sent to Tokyo a 38.5-percent tariff. Can you imagine that? Every pound of American beef getting into Japan still has a 38.5-percent tariff. When they reached the beef agreement, my god, you would have thought they just had won the Olympics. They had dinners and congratulated each other—good for all of these folks who reach trade agreements. Yet, twelve years later, we still have a 38.5-percent tariff on every single pound of beef we send to Japan.

That is just a sample. Potato flakes, cars to Korea, beef to Japan, stuffed molasses from Canada, and movies to China—you name it.

I say to those who come to us saying we want fast track: look, you don’t need fast track from Congress. I am sure not going to give it to you. You need only to observe it. You have fast-tracked trade agreements that, No. 1, threaten safety in this country by saying to us in those agreements you have to let trucks that are fundamentally unsafe come in from Mexico. You constructed trade agreements that have allowed the Canadians to dump durum wheat across our border.

I have told the story repeatedly—it bears telling again—of driving up to the border in a little 12-year-old orange truck with a farmer named Earl Jensen and all the way to the Canadian border we saw 18-wheeler after 18-wheeler hauling Canadian durum wheat south. It was such a windy day that the
That is not fair. It is not right. To do
trucks to come into this country under
we seem to end up on the short end.
States of America has never lost a war
represent.
look down and see whom they really
trade agreements
have solved the problems of the old
negotiate a new agreement unless you
er than creating problems, then come
problem of our getting cars into Korea,
trade problems, solving the Canadian
were in getting a fair agreement.
in getting an agreement than they
gotiators who did not seem to stand up
and ranchers out there who have been
taken by unfair trade agreements nego-
tiated by our trade negotiators who
should have known better, by trade ne-
gotiators who did not seem to stand up
for this country’s interest in the final
agreement were more interested in
in getting an agreement than they
were in getting a fair agreement.
Again, I say to the Trade Ambassador
and others, if you want fast track, hold
up a mirror and say this in the morn-
ing: Let’s come to terms on getting
trade problems, solving the Canadian
durum problem, solving the Canadian
stuffed molasses problem, solving the
problem of our getting cars into Korea,
potato flakes into Korea, movies into
China, and beer into Japan.
I stand here and cite a couple of
dozens more, if you like.
Show us you can solve problems rath-
er than creating problems, then come
back to us and talk. But don’t suggest
to me that we do something for you
to negotiate a new agreement unless you
have solved the problems of the old
trade agreements—yes, GATT, NAFTA,
you name it, right on down the road.
I have always, when I have spoken
about trade, tried to suggest that
we require our trade negotiators to
wear uniforms. In the Olympics, they
wear a jersey. It says “U.S.A.” across
the chest. So at least in some quiet
moment in some negotiating meeting
somewhere, these trade negotiators who
seem so quick to lose are willing to
look down and see whom they really
represent.
Will Rogers used to say, “The United
States of America has never lost a war
and never won a conference.” He surely
must have been talking about our
trade negotiators, because in agree-
ment after agreement after agreement
we seem to end up on the short end.
That is especially true with a trade
agreement that now puts us in a cir-
cumstance where we are told we are
supposed to allow Mexican long-haul
trucks to come into this country under
the provisions of the trade agreement
notwithstanding the safety issues.
That is not fair. It is not right. To do
so would not be standing up for the
best interests of the American people.
We are going to have a fight about
this. We are going to have controversy
about it. But as I said when I started,
this ought not be rocket science. We
cannot and should not decide that
these trade agreements either force us
or allow us to sacrifice the basic safety
of the American people. It doesn’t mat-
ter whether it is safety on the roads,
safety with respect to inspection, let
you name it. We cannot and should not
allow these trade agreements to force
us to sacrifice safety.
We should insist just once and for a
change that our trade negotiators stand
up for our national interests. There
is nothing inappropriate and
nothing that ought to persuade us to be
ashamed of standing up for our best
economic interests. Yes, we can do that
in a way that enriches all of the world
and in a way that helps pull others up
and assist others in need.
We can do that, but we also ought to
understand we have people in need in
this country. American family farmers
are going broke. We have all kinds of
people whose jobs are in the manu-
facturing sector. Manufacturing is a
sector in this country that is very im-
portant and has been diminishing rath-
er than expanding.
So let’s decide to do the right thing
with respect to trade. I want expanded
trade. I want robust trade. I do not be-
lieve we should construct walls. I do
not believe that a protectionist—using
the pejorative term—is someone who
enhances this country’s interests. But
using the protectionist, let me
just be quick to point out there is
nothing wrong with protecting our
country’s best interests with respect to
trade agreements that will work for
this country.
So we will have this discussion this
week on the Transportation Appropri-
tations bill, that will be under the able
leadership of Senator Murray. My
expectation is we will resolve this in a
way that is thoughtful and in a way
that expresses common sense in deal-
ing with Mexican long-haul truck-
carriers coming into this country.
I yield the floor.

EXHIBIT 1
(From the San Francisco Chronicle, Mar. 4, 2001)
MEXICO’S TRUCKS ON HORIZON—LONG-DIS-
TANCE HAULERS ARE HEADED INTO U.S.
ONCE BUSH OPENS BORDERS

(BY ROBERT COLLIER)

ALTAR DESERT, MEXICO—[Editor’s Note:
This week, the San Francisco Chronicle was
required by NAFTA to announce that Mexican
long-haul trucks will be allowed onto U.S.
highways—where they have long been
banned over concerns about safety—rather
than stopping at the border. The Chronicle
sent a team to get the inside story before the
trucks start to roll.] It was sometime near midnight in
the middle of nowhere, and a giddy Manuel
Marquez was at the wheel of 20 tons of
hurling, U.S.-bound merchandise.
The lights of a truck that entered the United States last
year were ordered off the road by inspectors
for safety violations. That would earn him a ticket in the United States
But had been ignored by his company since it occurred two months ago.
A recent report by the U.S. Transportation
Department said 35 percent of Mexican
truckers who entered the United States last
year were ordered off the road by inspectors
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But had been ignored by his company since it occurred two months ago.
said federal police appear to have abandoned a program of random highway inspections that was inaugurated with much fanfare last fall.

"Almost all Mexican long-haul drivers are forced to work dangerously long hours. Marquez was a skillful driver, with lightning reflexes honed by road conditions that would always seem like an over-control paradise. But he was often steering through a thick fog of exhaustion.

In Mexico, no logbook—required in the United States to keep track of hours and itinerary—are kept.

"We're just like American truckers, I'm sure," he said, with a grin, "we're kind of another saints or devils. But we're good drivers, that's for sure, or we'd all be dead."

Although no reliable statistics exist for the Bay Area trade with Mexico, it is estimated that the region's exports and imports with Mexico total $6 billion annually. About 90 percent of that amount moves by truck, in tens of thousands of round trips to and from the border.

Under the decades-old border restrictions, long-haul trucks from either side must travel through a short-haul "drayage" system, which cross the border and transfer the cargo to and from long-haul domestic trucks. The complicated arrangement is costly, consuming, making imported goods more expensive for U.S. consumers.

Industry analysts say that after the ban is lifted, the "nation's" drayage traffic will be done by Mexican drivers, who come much cheaper than American truckers because they earn only about one-third the salary and take a road by drive about 20 hours per day.

Although Mexican truckers would have to obey the U.S. legal limit of 10 hours consecutive driving, Mexican drivers, safety experts warn, will be so sleep-deprived by the time they cross the border that the American limit will be meaningless. Mexican drivers would not, however, be bound by U.S. labor laws, such as the minimum wage.

"Are you going to be able to stay awake?"

Marcos Munoz, vice president of Transportes Castores jokingly asked a Chronicle reporter before the trip. "Do you want some pingas?"

The word is slang for upper the stimulating pills that are commonly used by Mexican truckers. Marquez, however, needed only a few cups of coffee to stay awake through three straight 21-hour days at the wheel.

Talking with his passengers, chatting on the CB radio with friends, and listening to tapes of 1950s and 1960s ranchera and bolero music, he showed few outward signs of fatigue.

On this trip, the truck had to pass 14 roadblocks, where army soldiers searched the cargo for narcotics. Each time, Marquez stood on tiptoes to watch over their shoulders. He said, "You have to have quick eyes, they'll take things out of the packages."

Twice, police inspectors asked for bribes—"something for the coffee," he said. Each time, he refused and got away with it.

"You're good luck for me," he told a Chronicle reporter. "They ask for money but then see at the border and back off. Normally, I have to pay a lot."

Although the Mexican government has pushed hard to end the border restrictions, the Mexican trucking industry is far from united behind that position. Large trucking companies such as Transportes Castores back the border opening, while small and medium-size ones oppose it.

"We're ready for the United States, and we'll be driving to Los Angeles and San Francisco," said Munoz, the company's vice president.

"Our trucks are modern and can pass the U.S. inspections. Only about 10 companies here could meet the U.S. standards."

The border opening has been roundly opposed by CANACAR, the Mexican national trucking industry association, which carries out the state's truck inspections. What Transportes Castores executives candidly described as a "company union." A few days before this trip, Transportes Castores fired 20 drivers who protested delays in reimbursement of fuel costs.

But Marquez didn't much like talking about his problems. He preferred to discuss his only child, a 22-year-old daughter who is in her first year of undergraduate medical school in Mexico City.

Along with paternal pride was sadness.

"My wife is the one who raised her. I'm gone most of the time. You have to have a very strong marriage, because this job is hell on a wife."

"Technology will make U.S. drivers, time is money. Marquez's firm pays drivers a percentage of gross freight charges, minus some expenses. His three-day trip would net him about $300. His average monthly income is about $1,400—decent money in Mexico, but by no means middle class."

Most Mexican truckers are represented by a small union, but it is near dysfunctional, what Transportes Castores executives candidly described as a "company union." A few days before this trip, Transportes Castores fired 20 drivers who protested delays in reimbursement of fuel costs.

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over the four U.S. border states—California, Arizona, New Mexico and Texas—and to pick up loads for their return trip to Mexico. U.S. trucking firms would get similar rights to travel in Mexico by January 2000. Mexican trucks would be allowed throughout the United States.

However, bowing to pressure from the Teamsters Union and the insurance industry, President Clinton blocked implementation of the NAFTA provisions. The Mexican government retaliated by imposing a similar ban on U.S. trucks.

As a result, the long-term status quo continues: Trucks from either side must transfer to long-haul OTR (over-the-road) tractors, who cross the border and transfer the cargo again to long-haul domestic trucks.

The complicated arrangement is time-consuming and expensive. Mexico estimates its losses at $2 billion annually; U.S. shippers say they have incurred similar costs.

In 1986, Mexico filed a formal complaint under NAFTA, saying the U.S. ban violated the trade pact and was mere protectionism. The convoluted complaint process lasted nearly six years, until a three-person arbitration panel finally ruled Feb. 6 that the United States must lift its ban by March 8 or allow Mexico to levy punitive tariffs on U.S. exports.

**Comparing trucking regulations**

The planned border opening to Mexican trucks will pose a big challenge to U.S. inspectors to be tough enough to catch the irrefutable advantages of Mexican inspectors:

- **Standards for vehicle inspections** are voluntary; in Mexico: much laxer procedures.
- **Standards for components** such as tires, braking system, underride guards, night vision; in Mexico: no.
- **Out-of-service rules** for safety deficiencies; in U.S.: yes, for all drivers; in Mexico: no. Automatic disqualification for certain medical conditions; in U.S.: yes; in Mexico: no.
- **Logbooks**—In U.S.: yes, standardized logbooks with date stamps are required and part of inspection criteria; in Mexico: a new law requiring logbooks is not enforced, and virtually no one uses them.
- **Maximum weight limit (in pounds)**—In U.S.: 80,000; in Mexico: 135,000.
- **Roadside inspections**—In U.S.: yes; in Mexico: no; inspection program began last year but has been discontinued.
- **Out-of-service rules** for safety deficiencies; in U.S.: yes; in Mexico: not currently, program to be phased in over two years.
- **Hazardous materials regulations**—in U.S.: a strict set of standards, training, licenses and inspection regime; in Mexico: much laxer program with fewer identified chemicals and substances, and fewer licensure requirements.
- **Vehicle safety standards**—In U.S.: comprehensive standards for components such as antilock brakes, underride guards, night visibility of vehicle; in Mexico: newly enacted standards for vehicle inspections are voluntary for the first year and less rigorous than U.S. customs.

The **PRESIDING OFFICER** (Mrs. CARNAHAN). The time under the control of the majority has expired.

Under the previous order, the time until 1 p.m. shall be under the control of the Senator from Wyoming, Mr. Thomas.

The **Senator from Arizona.**

Mr. KYL. Madam President, I am going to talk about two different subjects this morning. The two subjects are the energy crisis, No. 1, and, No. 2, the situation in the Middle East. There is some connection between those two, and I will go into that in a moment. But I would like to treat them as separate subjects and begin with the discussion of the energy crisis.

The energy crisis. My colleague from Wyoming, Senator THOMAS, will be addressing that briefly as well.

**THE ENERGY CRISIS**

Mr. KYL. I suspect that most of my colleagues, as myself, talked to a lot of our constituents over the Fourth of July recess who reminded us of the fact that out in America there is still a problem with an energy shortage. I know I had to gas up my vehicle, as did a lot of other Americans, when I drove up to the mountains in Arizona. I had a wonderful time. I marched in a Fourth of July parade in Show Low, Arizona, and I recall hearing from Americans as far as I am concerned. Folks out there are still concerned because they recognize that Washington is dithering; that we are not doing anything to solve the problem of an energy shortage in this country.

Some people may call it a crisis; other people may not; but the fact is we have had a wake-up call. The question is, Will we answer the call or are we simply going to dither around, ignore it, and play partisan politics? My own view is that there is no better opportunity for us to show bipartisanship, to work together toward a solution to a common problem that affects all Americans, than working together to solve this energy shortage problem.

This is something on which the administration has weighed in. They have taken the issue very seriously. Very early in his term, the President asked the Commerce Department to look into the energy crisis, and I know the administration has weighed in. They have a plan, a program to take up that energy legislation in this Senate Chamber starting today or tomorrow. Sadly, that is not going to happen. The Democratic leadership announced some time ago that it had different priorities and that the Senate Chamber would not be the place for debate about the energy shortage the week following the Fourth of July recess.

In my understanding that hearings have been scheduled and both the Finance Committee and the Energy Committee will be taking up different pieces of legislation. There will be hearings on the administration’s plan, as well as other plans that is good. But we need to deal with this problem while we have had this wake-up call and not kick it to the back burner where we will forget about it and then, in another year or two, realize we wasted a couple of years that could have been spent in finding new energy sources, putting them into play, and providing an opportunity for Americans to enjoy the kind of prosperity we can enjoy with the proper mix of good energy sources.

There are some very real issues. One deals with the cost of producing electricity and how that electricity will be produced. The other has to do with the reality that Americans are going to use a great deal of energy—petroleum products, coal, and electricity—primarily for transportation. That is not going to change in the near term, despite the fact that over the long run we will have to come up with some alternatives.

I mentioned hydrogen fuel cells as one of those possibilities. It is a little closer than I think most people would recognize. We put money into basic research at the Federal Government level. The administration has pushed for that as part of their energy plan. I hope we can move down that path.

But in the meantime, we have to be realistic about the fact that Americans are going to continue to drive their automobiles. We are going to have to continue to have gasoline. We cannot wish that problem away. The question is, Do we rely strictly on the sources of oil from the Middle East, for example, or do we recognize that it really puts us behind the 8 ball if the OPEC countries want to constrain supplies and increase prices? Or if there is jeopardy to those sources from military conflict, will we have to once again send our troops and spend a great deal of energy and money to protect those energy sources as we did during the Persian Gulf war? That is one path we can take.

There are some in this country who would have us ignore the potential for energy development in this country, I think we ought to have a plan that both recognizes the potential within the United States for domestic production as well as buying what we can on the market internationally.

The other aspect of that problem is refineries. We have not built new refineries in this country for 20 to 25 years. We have actually had some shut down. As one of my Democratic colleagues said during a hearing in the Finance Committee a couple weeks ago, she is a
little disappointed about the fact that there is criticism of refineries making money. She said: What are my business folks in my State to do—be in the business to lose money? The fact is, they are in the business to make money. In the process of making money, they make petroleum products that we demand when we go to the service station.

When I filled up my vehicle last week, we were glad to be in that pump so I could drive my family where we were going. We have a lot of demand in this country. It is we who have the demand, not the oil companies. They are the ones that provide the product and the reason is to make money so that product so that we can meet our demand. Yet there is a great deal of criticism about anybody who would make money in producing one of these products. That is the only way we get the product.

The free market system has served us well. We ought to be very careful about denigrating the suppliers who have made it possible for us to enjoy our standard of living.

So my view, just to summarize, is that we should consider the President's recommendations in a bipartisan spirit. We should move along quickly with the hearings that I understand have been scheduled. And we should bring to this Senate Chamber, as soon as possible, the legislation or other recommendations that will enable us to deal with this issue now, when we have had the wake-up call, and not kick it down the road a couple years to what we can see some real problems not just in the State of California but spreading throughout this country in energy cost increases, potential blackouts and brownouts, and the like. This is the time to deal with that problem.

Mr. President, to conclude, I rise today to express my concern that the Senate Democratic leadership has not yet scheduled floor time to allow the full Senate to promptly address the energy crisis that threatens all Americans. Having just returned from the July 4th recess in Arizona, I can tell you that not all Americans share the view that this should be a low legislative priority. Most of them want to deal with the problem in a bipartisan way.

Because of its effect on the national economy as well as peoples' individual pocketbooks, I am particularly troubled by the energy crisis that seems to take a back seat to other issues on the new leadership's agenda. This is not the bipartisan approach that leaders urged when they were in the minority.

The United States faces the most serious energy shortage since the oil embargoes of the 1970s. We all know about California's problems with rolling blackouts and soaring energy bills. The President thought it important enough to travel to California last month to address this problem firsthand. Unfortunately, energy shortages and price increases are spreading to other parts of the country.

I want to make it as clear as I can that we should quickly address the energy recommendations offered by the administration. With oil consumption expected to grow by over six million barrels per day over the next 20 years, the rate of growth in natural gas to jump 30 percent and electricity demands to rise by 45 percent, we must act aggressively to increase production in each of these areas before the entire nation suffers from the shortfall. Just to meet expected increases, for example, we must begin now to build between 1,300 and 1,900 new power plants over the next 20 years.

To address this reality, we should act now on the 105 recommendations of Vice President Chennery's energy task force. This plan makes 45 recommendations to modernize and increase conservation through tax credits and the expansion of Energy Department conservation programs. It proposes 35 ways to diversify our energy supply and extend our energy sources by encouraging new pipelines, generating plants and refineries, and streamlining our regulatory process. And this proposal strengthens America's national security by decreasing our dependence on foreign oil through increased energy production within our borders.

Some opponents of the President and Vice President rely on ad hominem attacks, misinformation, and demagoguery to cast aspersions on the administration's proposals. They claim that, because the President and Vice President were once connected to the oil business, they somehow are disqualified from energy discussions. On the contrary—these are people who actually know something firsthand about the problems in the energy industry. They do not benefit personally from efforts to increase energy production.

Opponents of this energy strategy applaud the recent imposition of price caps to the west coast. However, these price caps do nothing to increase energy supplies, and could very well discourage investment in new generation power production by artificially limiting a producer's return on his or her investment. Indeed, California's two largest utilities are basically bankrupt. They appear to be happy enough with current on-site storage. Obviously, the critics of nuclear power are using this energy crisis to take a back seat to other issues on the new leadership's agenda. This is not the bipartisan approach that leaders urged when they were in the minority.

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allows for access to supplies as far as six miles away from a single, compact drilling site.

Two concerns are raised: oil spills and harm to wildlife. The threat of spills is far greater from ocean-going tankers than from the Alaska pipeline. And the caribou have prospered since drilling began on Alaska's North Slope.

This modest effort in ANWR would provide enormous benefits, producing as much as 600,000 barrels of oil a day for the next 40 years—exactly the amount we currently import from Iraq. Moreover, oil drilling utilizes a smaller portion of our environment than the alternative energy sources advocated by others. The Renewable Development Council for Alaska reports that, to produce 50 megawatts of power, natural gas production uses two to five acres of land, solar energy consumes 1,000 acres, wind power uses 4,000 acres, and oil drilling—less than one-half of an acre. That is real conservation of our natural resources.

As it stands now, American consumers already depend on foreign and often hostile nations for more than half of their energy. In 20 years, that percentage will increase to 64 percent. Doesn’t it make more sense to invest in domestic production so that we are not held hostage to the whims of OPEC and the need to militarily defend our interests in the major oil-producing regions?

In conclusion, I commend President Bush and Vice President Cheney for producing serious and honest proposals to ensure a long-term energy development program that acts in a truly bipartisan way and considers the administration’s ideas. We’re all in this energy shortage together. Democrats should work with Republicans for the good of all Americans.

THE MIDDLE EAST

Mr. KYL. Madam President, I would like to change gears a little bit and talk about another subject that is very distressing. Throughout this break I would turn the television on to the evening news, and invariably there would be a story about yet more violence in the Middle East. It really got me thinking about the fundamental issue that I think a lot of Americans have ignored.

We wring our hands. We wish that the oil was free. 20 years ago, there could be peace in the Middle East, and that they could put their problems behind them and live in harmony.

So we ask—and I see newspaper people basically asking different versions of this question—why can’t they just go back to the peace process? Of course, Secretary Powell urged both parties to agree to a cease-fire, which temporarily they did, yet every single day other horrible terrorist attacks or attempts in the State of Israel.

The Israeli people have said: Peace is a two-way street. If Yasser Arafat and the PLO are unwilling to enforce multiple cease-fire agreements and the peace process that we thought we had agreed to before, then we will have to enforce the law, and that includes going after those terrorists who threaten our people. No nation can do otherwise.

I rise to comment briefly on this notion of “returning to the peace process.” The problem is that the 1993 Oslo accords, which were the genesis of this thing we call “the peace process,” we found out were fundamentally flawed. That is now apparent to the Israeli people, despite significant differences. Talk about a robust democracy. It exists in Israel. You have very strongly held views by different citizens in Israel, and they fight it out. During their election process, they had a very robust election contest. Then they come together with a leader, and they hope to be unified as a people.

They had desperately wanted, to borrow someone’s phrase, to give peace a chance. As a result, they tried to make the Oslo accords of 1993 work. What they found after Camp David, just about a year ago this month, was that the PLO was unwilling at the end of the day to make the kinds of commitments that would be necessary for a lasting peace in the region. The reason for that is a fundamental difference of approach.

For the Israelis, it has been a question of buying concessions, primarily of land, of territory. But the PLO and other Arab or Muslim groups in the Middle East apparently never had any intention of providing the quid pro quo of peace. Instead, too much of their effort has been focused on the illegitimacy, in their view, of the Israeli State, of the fundamental disagreement with the action that the United Nations took after World War II to literally create a homeland for the Jewish people. A homeland was taken from territory which the Palestinians saw as their lands, they have never been willing to concede the legitimacy of the Israeli State.

At Camp David, after historic concessions were made by Prime Minister Barak, concessions which had to do with the most basic rights of the Israeli citizens—to name their own capital and to have that capital an undivided city, Jerusalem; concessions with regard to settlements issued in the West Bank land returned to the Palestinians; concessions made in removing its troops from Lebanon and a whole variety of other things—after all of those concessions had been made and there was an opportunity to seize the moment, Yasser Arafat, on behalf of the PLO, said no, he wanted one more thing. He wanted the right of return of all of the Palestinians, maybe 2 to 4 million people, many of whom he claims were dispossessed in order to create the Jewish state. All of those people had to have the right to go back to their homes.

Of course, of course, was the ultimate deal breaker. No Israeli leader could ever agree to that concession. That would literally have meant the end of the Jewish state as it is. As a result, those accords of a year ago that discussions at Camp David of 4 years ago, concluded with no agreement. It exposed the fundamental fallacy of the Oslo accords in the first instance.

Very briefly, there were three essential premises of the Oslo accords. The first up front, Israel ceded the land, as the 30,000-man armed force, that could be used to suppress violence rather than to promote more agitation in the Middle East. The idea was that whereas a democratic society such as Israel had been dealing primarily with terrorist, a firm dictatorial Yasser Arafat, with an armed 30,000-man armed force, could put down these terrorists and bring peace to the area. Of course, the force expanded significantly beyond that, which had been agreed to and eventually it was used to promote violence, not to suppress it.

The second premise was that Israel could withdraw from the territory because of the mutual peace that was reached, without losing its bargaining power or military deterrent. It had worked the other way around with regard to Egypt, Egypt, in good faith with President Sadat, dealt with the Israeli leaders and agreed to withdraw from the Sinai and the peace was restored between Israel and Egypt as a result. That withdrawal of Israeli forces from Egyptian land prior to the peace ensuing was a true trade of land for peace. Under the Oslo accords, the situation was reversed. Israel was required to withdraw first and then negotiate. The result, of course, has been no credible peace.

The third premise is that peace could be made with the PLO. In Israel there had been a consensus all along among all of the parties, including Labor and Likud, that it was not possible to deal with the PLO because, A, the Palestinian organization was philosophically committed to Israel’s destruction. It is hard to deal with people in a peace process who are absolutely committed to your destruction.

Secondly, the PLO’s previous negotiations had been biased toward terrorism as the means of achieving their objectives. No Israeli government had been willing to negotiate with an entity committed to its destruction through violence.

This peace process changed that. The Israeli leaders, in a leap of faith, said: All right, we will deal with the PLO, despite this historic background.
The process itself became the basis for this understanding. A new assumption was basically created. If you are in the process of negotiating, then the quality of the people on the other side really didn’t matter. That is why the Israelis were willing to make this leap of faith. It almost became a secular religion. In this country people talked about the peace process almost as the end in itself rather than the means to an end.

It turns out that the nature of the leadership of the negotiating parties does matter. So do the actions on the ground. The quality of the other people is fundamental to the success of the negotiations. The parties were never close, as some thought. Rather, the question really is whether peace was ever achievable given the Palestinian objectives.

That is why I say the fundamental assumptions of the peace process, of the Oslo accords, were flawed. In the end, the premise that the Oslo process was fundamentally flawed is the height of arrogance. We in the U.S. have to be critical of that decision on the part of the Israeli Government against the Palestinians which is the cause of the problem.

This whole idea of moral equivalence is wrong. If we go back to the founding of the United Nations and recognize what was attempted there and the moral legitimacy of the Israeli State, then I think Americans will more carefully calibrate their criticism of the Israeli Government and understand that it is going to take a long time; that hearts have to change before there can be peace; and probably the best opportunity is for democracy to take hold in the Arab States so that the leaders are accountable to their people and because in the long run, most people really want peace. They want to live together; they want to engage in commerce together; and they do not want to continue to send their sons and daughters to die for causes that are whipped up by their leadership—to die unnecessarily.

This is a good time to answer that question, beginning with an assessment of what went wrong with the Oslo peace process.

The second premise was that Israel—Madam President, I think what we have to recognize is that as long as the leadership of the other side in this controversy—primarily the PLO—is not democratically based but is totalitarian, as long as there is not an involvement of all of the Palestinian people in the decisions on the other side, there will continue to be conflict.

The question of the leadership on the other side matters, and it matters greatly. Until there is a democratically elected Palestinian Government, until the leaders are accountable to the people, whom I suspect want peace as much as anybody else in the region or in the world, then we are not likely to get the kind of peaceful resolution for which we all hope.

So the point right now is that the American people will be understanding of the position of the Israeli Government; that they will be supportive of this long-time ally, the nation of Israel; that they will recognize that there is an imbalance between acts of terror on the one hand and attempting to enforce the law on the other hand; that they will be supportive both in terms of military and economic support but also psychologically and not buy into this notion that there is repression on the part of the Israeli Government against the Palestinians which is the cause of the problem.

The nature of the leadership on the other side, until there is a democratically elected Palestinian Government, until the American people are not to blame for dealing now with the Palestinian force prohibited arms found their way into the intifada, maybe Arafat could. The failure to stop it was a mistake back in 1987 when the intifada started. The failure to stop it was a mistake. The failure to stop it was a mistake. The failure to stop it was a mistake. The failure to stop it was a mistake. The failure to stop it was a mistake.

So I hope the American people, as a result of these comments and others, will support the administration in its very delicate and difficult negotiations in that region and will be supportive of the Members of this body who seek to promote a peace process that will be not just temporary but lasting.

Mr. President, yet again Israel’s restraint and unilateral acceptance of a “cease fire” has been met with terrorist acts perpetrated against an innocent civilian population. The recent tragic deaths of 20 Israeli teenagers and serious wounding of another 48 by a Palestinian suicide bomber were the latest example of the need to follow the long road of religious tolerance and respect for the other. I am extremely concerned that the doctrine of moral equivalence has taken root among many in the United States and around the world with respect to perceptions of Arab-Israeli violence. While over the years Israel may have taken steps with which we do not always agree, the notion that it operates on the same moral plane as its adversaries is patently false. The suicide bombing, deliberately targeted against Israeli youth, was not the result of individuals driven to extremes by perceived Israeli intransigence in peace talks. It was, in fact, the action of terrorists.

This is a good time to answer that question, beginning with an assessment of what went wrong with the Oslo peace process and the effect of the violence in Israel today cannot be overstated. After the failure of the Camp David summit just a year ago, and the subsequent reignition of violence, Israel has suffered from an unrelenting assault on its people. The result has been a total reassessment in Israel of the premises of the Oslo peace process—premises which have turned out to be invalid.

Let’s go back to 1993. The first of three basic premises of Oslo was that, if the PLO were to present an organized force, it would be used to supp—press, to perpetuate, armed violence. Yitzhak Rabin was Defense Minister back in 1987 when the intifada started. The failure to stop it was a turning point for Rabin. It caused him to decide then to begin a peace process. He thought that if Israel couldn’t handle the intifada, maybe Arafat could. But soon the 30,000-man force became a 40,000-man force, and anti-tank weapons, shoulder-fired weapons, other prohibited arms found their way into the Palestinian force’s arsenal—weapons that are now pointed and fired at Israeli communities. All of this has occurred in the name of the intifada.

So the first premise—that the PLO would actually control the intifada with a 30,000-man force—turned out to be false. The second premise was that Israel could withdraw from territory before a final peace accord was reached without losing its bargaining power or sacrificing physical security. In the case of
its dealings with Egypt, Israel had ceded land after the peace agreement was obtained. That withdrawal had worked as a true trade of land for peace. But, under the Oslo Accords, Israel was required to withdraw first and then negotiate. The result has been no credible peace.

This premise of Oslo had been based on the assumption that Israel was finally strong enough to be able to relinquish land while preserving its ability to deter violence. So Israel withdrew from the West Bank, except for a few military posts authorized in the Oslo agreement, and in May of 2000 also withdrew from southern Lebanon. Both actions appeared to the Arab terrorist organizations and the Palestinian Authority as a retreat from a successful campaign of violence. After the intifada, Israel withdrew from the West Bank. After the terrorism of Hezbollah, Israel withdrew from Lebanon. The PA understandably saw violence as a way to achieve its objectives.

So the second premise of Oslo—that Israel could withdraw first and achieve its peace objectives later—has also proven false. Arafat and the PA interpreted the withdrawals simply as a sign of weakness, thus emboldening them to incite the violence that has continued unabated since Rosh Hashana.

The third, and central, premise of Oslo was that peace could be made with the PLO. In Israel, there was a consensus until 1993 among all parties, including Labor and Likud, that it was not possible to deal with the PLO. There were two reasons for this view: first, the PLO was philosophically committed to Israel's destruction; and, second, the PLO's negotiations had been historically based on terrorism. No previous Israeli government had been willing to negotiate with an entity committed to its destruction through violence.

But in 1993, Oslo created a new assumption: If you had a process—a process of negotiating—then the quality of people on the other side did not really matter. The process became almost like a secular religion. The process was the important thing, and so actions on the ground didn't matter. This notion had roots in Western dealings with leaders in countries like North Korea, Iraq, and the Soviet Union.

It is no accident that the nature of leadership does matter, and so do actions on the ground. The quality of people on the other side is fundamental to the success of negotiations. It is the people, not the process, that matters.

The fact is, the parties were never as close as many believed. The issue was never the desirability of peace, or what the United States or Israel could do to bring it about. Rather, the question was whether peace was ever achievable, given Palestinian realities. Yet when Barak and Arafat were near the end of negotiations, Arafat raised one more demand: that Israel must agree to the right of return, and admit more than a million Palestinians into Israel.

This notion is anathema to all Israelis. Even those on the left oppose the right of return because of its consequences; literally, the end of Israel as a Jewish state. Barak made unprecedented concessions at Camp David. Even Leah Rabin complained that Barak's concessions would cause her late husband to turn over in his grave. This move by Arafat was so shocking that virtually all Israelis lost confidence in the process. Barak lost all support. And a radical reassessment of realities set in.

Despite the disappointment at the failure of negotiations, the awakening of the Israeli people to the faulty premises and the reality of the failure of the Oslo Accords is a healthy development. The Bush Administration seems to have assimilated much of the Israeli frustration and sees very clearly the need to avoid being drawn into the Oslo process. The Oslo process has ended. It is time to move on from Oslo, to do what it takes to defend their state and to survive. What is needed is a terrorist—its ability to match concessions with tangible peace.

The principal goal now should be to repair that damage. Amid all the Israeli concessions and gestures, it was assumed there would be reciprocity on the part of the Palestinians. But the Arabs believed showing reciprocity would be a sign of weakness on their part. The evidence abounds. More Israelis were killed by terrorist acts after Oslo than in the decade before. The PLO did not fulfill the promises it made; for example, disarming the terrorists—in fact, releasing from prison some of the most dangerous Hamas terrorists—limiting its arms, and guaranteeing peace.

Moreover, and perhaps even more disturbing for the long run, the Palestinians created schools with a curriculum of brainwashing their children in hatred and violence. A shocked New York Times reporter last summer wrote of the creation of summer camps that even taught assassination. Former Prime Minister Benjamin Netanyahu paints the picture of posters throughout Palestinian communities showing a menacing Israeli soldier, armed to the teeth, towering over a pitiful looking Arab youngster who holds only one thing. Do you know what it is? A key. And every Arab child knows what it is. The Key to an Arab home in Jaffa, or Haifa, or any other Arab community of pre-1967 Palestine. So much for the view that the parties were “just this close.” All of this has caused a reassessment of the realities, and, as I said, that is a healthy development at this point.

One must view the situation today clear eyed and in strategic terms. It is a situation of more than just military or economic power. For Israel it is quite simply a question of morale. Israel's problem right now is not that it lacks either economic or military power, but rather that its people have been following a conceptual and intellectual approach to achieving peace that has turned out to be counterproductive. The result has been confusion, frustration, and a problem of morale that can only be dealt with by reevaluation of the conceptual and intellectual approach to achieving peace. The people were so shocked by the failure of the Oslo process that the presumptions underlying that process were illusions. Their disillusionment has set them adrift because they see they have lost territory and credibility that would never have been lost by military force.

The Camp David concessions are especially galling now that there is a recognition that they were based upon false premises, a quid pro quo that was never to be reciprocated by the Palestinians. It makes the last several years seem very lost indeed. So that the Israelis are revising their thinking.

Those of us who have cared about the security of Israel and have watched the process over the years, viewed it with great anxiety because we worried it would have resulted in irreparable losses. And yet, with the last election, we see the Israeli people rethinking the premises of Oslo and charting a course to recover the initiative. The fact that Ariel Sharon, with all his political baggage, is perceived as the man to carry the process forward suggests that the Israeli people are prepared to do what it takes to defend their state and to survive. Like England fighting back from its unpreparedness in the 30's and the United States after its military decline of the 1970's, Israel seems to have said, “This far and no more,” and begun to rethink its approach to achieving peace and security.

Countries seem to have a way of being better than their failed leaders, and we can hope that that is what will happen in the future. The key to peace is a more democratic and much less corrupt leadership. There are moderate Palestinians, but they are not political leaders; they are not relevant to the equation. Most Palestinians have been cursed with leaders who have always seemed to be wrong for the times. In World War I, Palestinian leaders sided with the Turks against the British; in World War II, with the Nazis against the allies; in the Cold War, with the Soviets against the West; and in the Persian Gulf War, with Saddam against the coalition of allies.

Given his long record as an ideologue, a terrorist, and an untruthful promisessor, and fount of untruth, it should not really surprise anyone that Arafat remains what he has always been. As Charles Krauthammer recently noted...
in the Weekly Standard. “[Arafat] proved, even to much of the Israeli left, that the entire theory of preemptive concessions, magnanimous gestures, rolling appeasement was an exercise in futility.”

The key to peace is a Palestinian leadership that would appeal to the better nature of the Palestinian people, one that would reflect their aspirations for a prosperous and peaceful future—not one that exploits their misery through a policy of physically and vitriolistically attacking Israel. In short, a democratic government. As my friend Douglas Feith expressed the point in an article in Commentary: “A stable peace [is] possible . . . only if the Palestinians first evolved responsible administrative institutions and leadership that enjoyed legitimacy in the eyes of its own people, refrained from murdering its political opponents, operated within and not above the law, and practiced moderation and compromise at home and abroad.” This would, of course, be a boon not only for the Israelis, but for the Palestinians—indeed especially for the Palestinians.

For over fifty years, the United States and Israel have been bound togetherness in a relationship that has weathered many efforts to drive a wedge between us. With the coincident election of a new leader in each country, our two great nations have an opportunity to reassess the lessons recent history has to teach us. For my part, I am optimistic that the new American administration will place a great value on our relationship with the Israeli people; and I am optimistic that the Israelis will maintain the strength and morale that they will need to await a change in Palestinian leadership. At that point there will be much more the Israelis can do to secure their future.

The United States should not push Israel into a process or into an agreement with which the government and people are not completely comfortable, with their security ensured. It is their existence that is at stake, and we must take no actions that jeopardize their security.

My colleague from Wyoming would like to use the remainder of our time.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

ENERGY

Mr. THOMAS. Madam President, I appreciate the time. I thank my friend from Arizona for his comments on energy. Certainly, I can think of an issue that affects more people and is more likely to become a crisis against energy. We had some touch of it and backed off of it a little. California is doing a little better than it was. Gas prices are tending to stabilize or even come down.

The real cause of the problem is still there. I am surprised, frankly, that the Senate leadership hasn’t been willing to go forward and at least give us a date as to the time in which we can undertake this question of energy and energy supply. We have gone now 8, 10 years without a policy regarding energy, not having any real direction with regard to what we are going to do. We have become 60-percent dependent on OPEC and overseas oil. We haven’t developed transmission capacity lines, or pipelines in order to move energy from where it is to where it is needed, and still our leadership here refuses to move forward.

I think we will again be facing the same kind of situation we just had if we don’t move to find a long-term resolution, and we can.

We now have a policy from the administration, one that deals with domestic production. There is access to public lands, much of it standing in Alaska or in many places that could indeed have production without damage to the environment. We can do that.

We can talk about conservation. We have to have a policy to cause us to do some of these things.

The transportation is vitally important. In Wyoming, we have great supplies of coal, for example. In order to mine and move that energy to where it is needed, you have to have some transmission. There are a number of ways to do that, and we can if we decide to and commit ourselves to do it.

Research, clean coal: Our coal in Wyoming is clean, and it can be cleaner if we have research to do that. Diversification: We can’t expect to have only one source of supply for all the energy we use. We are heavy energy users, and most of us are not willing to make many changes to that.

Diversity: We can’t expect to have only one source of supply for all the energy we use. We are heavy energy users, and most of us are not willing to make many changes to that. I am grateful for the comments of my friend, and I hope we can get the leadership here to set the agenda to move toward doing something there.

USING SNOW MACHINES IN YELLOWSTONE PARK

Mr. THOMAS. Madam President, I know it is now summer, but I will now talk about using snow machines in the Yellowstone Park in the wintertime. It is a question that has become quite political, as a matter of fact. There have been letters sent to the Department of the Interior from the Senate on both sides.

For a number of years, in Grand Teton, in Yellowstone Park, and many of the other parks, the principal access people have had in the wintertime to enjoy their park was with snow machines. It has been done for a long time, really. Frankly, there hasn’t been much management of that technique, unfortunately. The park officials have not had much to do with it. They have not sought to organize how and where it is done, separate the snow machines from the cross-country skiers, which can be done so each can have their own machines. It has to manage numbers sometimes, for instance, if they become too large around Christmas vacation.

They can make changes, but they have not done that. They have an opportunity, and we have an opportunity to have much cleaner machines, which are less noisy and which are less polluting. The manufacturers have indicated they can and will do this. Of course, they made it clear to the EPA that they have done this, they will be able to use these machines. But none of these things have happened. Instead, because of the difficulties that are, in fact, there and without management, an EIS study went on for several years. Unfortunately, toward the end, instead of going on through with the regular system of input, the Assistant Secretary of the Interior went out and said this is what the answer is going to be. The answer was to do away with individual snow machines in the parks over a period of a couple of years. That isn’t what is designed to happen when you have EIS studies and when you involve local communities and local people and then have somebody from Washington come and make the decision. But that is what did happen.

Furthermore, the regulation that was agreed to in the study was put before the public the last day of the last administration and then someone negotiated away that opportunity to do anything about it. So what has happened is that there has been a lawsuit filed. I have introduced a bill that would allow not to continue snow machines in the way they have been done to date, rather, to do the management technique that manages the machine and the sites, and also set specifications that manufacturers can meet them and you can go forward.

What is the purpose of the park? It is to preserve the resources and to allow the owners to enjoy them. This is the way that you have access in the wintertime.

So this has become somewhat of a discussion, somewhat of a controversy. I am hopeful that they can come to an agreement—and this administration is working toward coming to an agreement—in which these changes could be made. Nobody is suggesting to continue to do it the way it has been done in the past. But there can be changes made that will indeed allow access and protect the environment and the animals and the rural environment at the same time. We can do those things.

One other word on national parks.

The Grand Teton National Park and Yellowstone National Park was expanded in 1950. When that was done, there were a number of lands that were brought into the park, and among them were several school sections that belonged to the State of Wyoming. They are now in the park as inholdings and therefore cannot be managed by the park but cannot be used for anything else. Therefore, we have two losers: One is the park which has these inholdings it cannot handle; second is the school sections to finance education, and they are now bringing in revenue to the State of Wyoming.

To make a long story short, I have a bill I hope will be before the committee
soon to allow the Secretary of the Interior and the State of Wyoming to come to some agreement in finding a value for those lands by using an appraiser upon which they agree and then work out an arrangement to either trade those lands for other Federal lands outside the State of Wyoming, trade them for mineral royalties, or sell but come to some financial arrangement.

I hope we can get some support for something that will be useful to Grand Teton National Park as well as the State of Wyoming.

I think our time has expired. I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

SUPPLEMENTAL APPROPRIATIONS ACT, 2001

The PRESIDING OFFICER (Mr. KYL). Under the previous order, the Senate will now proceed to the consideration of S. 1077, which the clerk will report.

The senior assistant bill clerk read as follows:

A bill (S. 1077) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent, the order for the quorum call be dispensed with.

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

Mr. BYRD. Mr. President, today, the Senate is debating S. 1077, the Supplemental Appropriations Act for Fiscal Year 2001.

On June 1, 2001, President Bush asked Congress to consider a supplemental request for $6.5 billion, primarily for the Department of Defense. The draft supplemental bill that is before us totals $6.5 billion, not one dime above the President’s request—not one thin dime above the President’s request. It contains no emergency funding. The President has said that he will not support such emergency spending, so the Committee has not included any emergency designations in this bill. Unrequested items in the bill are offset.

S. 1077 funds the President’s request for additional defense spending for health care, for military pay and benefits, for the high costs of natural gas and other utilities, for increased military flying hours, and for other purposes. The bill includes a net increase of $3.54 billion for the Department of Defense and $291 million for defense-related programs of the Department of Energy.

While the Appropriations Committee has approved most of the President’s request for the Department of Defense, I stress the importance of accountability for these and future funds. Financial accountability remains one of the weakest links in the Defense Department’s budget process. Just last month, the General Accounting Office reported that, of $1.1 billion earmarked for military spare parts in the fiscal year 1999 supplemental, only about $88 million could be tracked to the purchase of spare parts. The remaining $1 billion, or 92 percent of the appropriation, was unaccounted for and tracked to operations and maintenance accounts, where the tracking process broke down.

Perhaps a substantial portion of the money appropriated for spare parts was spent on spare parts; perhaps it was not. But, given the way the money was managed, nobody knows for sure and that, it seems to me, is an unacceptable circumstance, because one thing we do know for sure is that an adequate inventory of spare parts is a key component of readiness and the Defense Department apparently does not have an adequate inventory of spare parts. So we must do better in making sure these dollars for spare parts go for spare parts.

The supplemental funding bill before us today includes another $30 billion for spare parts, this time specifically for the Army. As former President Reagan would have said, here we go again. To forestall a repeat of the problems that arose in accounting for spare parts expenditures provided in the fiscal year 1999 supplemental, the committee, at my request, approved report language requiring the Secretary of Defense to follow the money and to provide Congress with a complete accounting of all supplemental funds appropriated for spare parts. The intent of this provision is to ensure that money appropriated by Congress for the purchase of spare parts does not get shifted into other programs.

The supplemental appropriations bill, as reported by the Senate Appropriations Committee, provides $300 million for the Low Income Energy Assistance Program, an increase of $150 million above the President’s request, to help our citizens cope with high energy costs. The bill also includes $161 million that was not requested for grants to local education agencies under the Education for the Disadvantaged Program, a direct response to recent poverty and expenditure data. Also provided is $100 million as an initial United States contribution to a global trust fund to combat AIDS, malaria, and tuberculosis. In addition, $82 million requested by the President for the Coast Guard was included, as was $115.8 million requested for the Treasury Department for the cost of processing and mailing out the tax rebate checks.

In addition, the bill includes $84 million for the Radiation Exposure Trust Fund to provide compensation to the victims of radiation exposure. We thank Senators DOMENICI and BINGAMAN for their leadership in assisting those who were involved in the mining of uranium ore and those who were downwind from nuclear weapons tests during the Cold War.

The Senate Appropriations Committee’s bill includes a number of offsets to pay for these additional items. Members should be on the lookout for the passage of this bill, we are at the statutory cap for budget authority in Fiscal Year 2001. I say to colleagues on both sides of the aisle that any amendments that are offered will need to be offset. Exceeding the statutory cap would result in an across-the-board cut in all discretionary spending, both for defense programs and for non-defense programs. I urge Members to avoid the spectacle of a government-wide sequester by finding appropriate offsets for amendments.

There is another reason to insist on offsets for any additional spending. During debate on the recent tax-cut bill, I argued that the tax cuts contained in that bill could return the Federal budget to the deficit ditch. I stressed that the tax cuts were based on highly suspect ten-year surplus estimates and that if those estimates proved illusory, the tax-cut bill would result in spending the Medicare surplus. Now, before the ink is even dry on the President’s signature on that tax bill, we may find ourselves headed back into the deficit ditch and headed in the direction of cutting into the Medicare surplus.

Our distinguished Chairman of the Senate Budget Committee, Kent Conrad, has prepared an analysis of the budget picture for Fiscal Year 2001, the current fiscal year, based on recent economic projections from the President’s own Director of the National Economic Council, Lawrence Lindsey. The tax-cut bill reduced the surplus by $74 billion in Fiscal Year 2001 alone. As a result, Chairman Conrad is projecting a raid on the Medicare Trust Fund in Fiscal Year 2001 of $17 billion.

Any efforts to increase spending in this bill without offsets will only make this problem worse.

The President asserted in his Budget Blueprint that the authority of the Congress and the President to designate funding as an emergency has been abused. The Administration has indicated that it plans to rein in the Congressional Policy of June 19, 2001, that the President does not intend to designate the $473 billion of emergency funding contained in the House-passed bill as emergency spending.

The administration further states that “emergency supplemental appropriations should be limited to extremely rare events.” The Senate supplemental bill contains no emergency designations. Nonetheless, I do believe that it is appropriate for Congress and the President to use the emergency authority in response to natural disasters and other truly unforeseen events in the nature of disasters.
As I mentioned earlier, this supplemental appropriations bill provides immediate relief through the Low-Income Home Energy Assistance Program, LIHEAP, for American families being hit hard by this energy crisis. Moreover, it includes funding to help educate our most needy students through the Education for the Disadvantaged Program. To help offset the cost of these two supplementals, a rescission of unallocated dislocated worker funds under the Workforce Investment Act was also included in the committee bill.

The States have accumulated a large, unexpended balance of dislocated worker funds due to start-up delays with the Workforce Investment Act of 1998. These funds are estimated to exceed $600 million for the program year that ended on June 30, 2001. Although the rescission of dislocated worker funds will reduce the Labor Department projects that the carryover funds from the previous program year will more than offset the rescission of dislocated worker funds, carryover balances, will actually increase by $423 million in program year 2001, or 25 percent above the level for program year 2000.

Furthermore, report language was included in the supplemental appropriations bill expressing the Senate Appropriations Committee’s support for the Workforce Investment Act, the dislocated worker program, and the committee’s intent to carefully monitor the advanced job training services. Should it be determined that additional funds are needed, the Appropriations Committee will do all it can to ensure that sufficient funds are included in the Fiscal Year 2002 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations bill.

Pursuant to the unanimous consent agreement, Senator Stevens and I will be offering a managers’ amendment that would provide $3 million to help educate suppliers that have been agreed to by both sides. One of the items in the managers’ amendment is an amendment of mine to provide $3 million to hire additional USDA inspectors to promote the proper treatment of livestock. Another item would provide $20 million to help farmers in the Klamath Basin in Oregon and California. The cost of these and other provisions contained in the managers’ amendment is fully offset.

I have noted in the press recently some stories that greatly concern me. I believe the American people are concerned and are becoming increasingly sensitive to the treatment of animals. Reports of cruelty to animals through improper livestock production and slaughter practices have hit a nerve with the American people. The recent announcements by major food outlets, such as McDonalds, that they would only buy products from suppliers that could assure certain levels of humane animal treatment speak volumes to changes in public expectations.

The managers’ amendment will provide an additional $3 million through the USDA Office of the Secretary for activities across three department mission areas to protect and promote humane treatment of animals. Of the $3 million provided, no less than $1 million is directed to enforcement of the Animal Welfare Act, which compels the USDA Office of the Secretary to provide for the preparation and presentation of this bill.

I yield the floor.

The PRESIDING OFFICER. Does the Senator make his unanimous consent request at this time?

Mr. BYRD. Yes, I do make that unanimous consent request.

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

[From the Washington Post, Apr. 10, 2001]

PASCO, WASH.—It takes 25 minutes to turn a live steer into steak at the modern slaugh-
therhouse where Ramon Moreno works. For 20 years, his post was “second-legger,” a job that entails cutting hocks off carcasses as they whirl past at a rate of 40 to 50 per minute.

The cattle were supposed to be dead before they got to Moreno. But too often they weren’t.

“They blink. They make noises,” he said softly. “The head moves, the eyes are wide and looking around.”

Still Moreno would cut. On bad days, he said, animals of animals had reached his station clearly alive and conscious. Some would survive as far as the tail cutter, the belly rip-
er, the hide puller. “They die,” he said.

“Piece by piece.”

Under a 23-year-old federal law, slaugh-
tered cattle and hogs first must be “stunned”—rendered insensible to pain—with a blow to the head or an electric shock. But at overtaxed plants, the law is some-
times broken, with cruel consequences for animals as well as for enforcement.

Records, interviews, and worker affi-
davits describe repeated violations of the Humane Slaughter Act at dozens of slaugh-
teries, ranging from custom butteries to modern, automated establish-
ments such as the sprawling IBP Inc. plant here where Moreno works.

“Plants all over the United States, this happens on a daily basis,” said Lester Fried-
lender, a veterinarian and formerly chief government inspector at a Pennsylvania hamburger plant. “I’ve seen it happen. And I’ve talked to other veterinarians. They feel it’s out of control.”

The U.S. Department of Agriculture over-
sees the treatment of animals in meat plants, but enforcement of the law varies dramatically. While a few plants have been forced to halt production for a few hours because of alleged animal cruelty, such sanc-
tions are rare.

For example, the government took no ac-
tion against a Texas beef company that was cited 22 times in 1998 for violations that in-
cluded chopping hooves off live cattle. In an-
other case, agency supervisors failed to take action on multiple complaints of animal cru-
elty at a Florida beef plant, said an ani-
mal health technician for reporting the prob-
lems to the Humane Society. The dismissal letter sent to the technician, Tim Walker, said his disclosure had “irreparably dam-
ged” the agency’s relations with the pack-
ing plant.

“I complained to everyone—I said, ‘Lookit, they’re skimming live cows in there,’ ” Walker said. “Always it was the same answer: ‘We know it’s true. But there’s nothing we can do about it.’ ”

In the past three years, a new meat inspec-
tion system that shifted responsibility to in-
dustry has made it harder to catch and re-
port cruelty problems, some federal inspec-
tors say. Under the new system, imple-
mented in 1998, the agency no longer tracks the number of humane-slaughter violations its inspectors find.

Some inspectors are so frustrated they’re asking outsiders for help. The inspectors’ union last spring urged Washington state au-
thorities to crack down on alleged animal abuse at the IBP plant in Pasco. In a state-
ment, IBP said problems described by work-
ers in its Washington state plant “do not ac-
curately represent our way of working or our plants. We take the issue of proper livestock handling very seriously.”
But the union complained that new government policies and faster production speeds at the plant had "significantly hampered our ability to ensure compliance. Several animal welfare groups joined in the petition.

"Privatization of meat inspection has meant a quiet death to the already meager enforcement of humane slaughter associations," said Gail Eisnitz of the Humane Farming Association, a group that advocates better treatment of farm animals. "USDA isn't simply relinquishing its humane-slaughter oversight to the meat industry, but is—with out the knowledge and consent of Congress—abandoning this function altogether."

The FSIS' Animal Welfare Ombudsman, said it has relaxed its oversight. In January, the agency ordered a review of 10 dead and slaughtered cattle. A FSIS memo reminded its 7,600 inspectors they had an "obligation to ensure compliance" with humane-handling laws.

The review comes as pressure grows on both industry and regulators to improve conditions for the 156 million cattle, hogs, horses, and sheep slaughtered each year. McDonald's and Burger King have been subject to boycotts by animal rights groups promoting treatment of livestock.

As recently as 1993, McDonald's began requiring suppliers to abide by the American Meat Institute's Good Management Practices for Animal Handling and Slaughter. But managers at the plant, which an industry consultant for the American Meat Institute, said were excessive plant production speeds. IBP, which owned the plant at the time, contended that it was normal for cattle to kick or twitch by reflex. But a video shows injured cattle being trampled. In one clip, a USDA inspector is shown writing up a report while a blood-splattered chamber shielded from view reveals a machine-like eyesore, which sends a team of inspectors scurrying around the barn to inspect the animal's condition.

"McDonald's is just the right thing to do," said a USDA doctor. "It's the right thing to do."

"You can speed up a job and speed up a job, and after a while you get to a point where performance doesn't simply decline—it crashes a haystack."

When that happens, it's not only animals that suffer. Industry trade groups acknowledge that improperly stunned animals contribute to worker injuries in an industry that already has the nation's highest rate of job-related injuries and illnesses—about 27 percent a year. At some plants, "dead" animals have inflicted so many broken limbs and teeth that workers wear chest pads and hockey masks.

"The live cows cause a lot of injuries," said a USDA doctor. "It's a retraction into the steer's forehead. An effective stunning requires a precision shot, which workers must deliver hundreds of times daily to balmy, frightened animals that frequently weigh 1,000 pounds or more. Within 12 seconds of entering the chamber, the fallen steer is shackled to a moving chain to be bled and butchered by other workers in a fast-moving production line.

The hitch, IBP workers say, is that some "cows can walk". "If you put a knife into the cow, it's going to move a lot," said Moreno, the former second-legger, who began working in the stockyard last year. "They move the head and the eyes and the leg like the cow wants to walk."

At IBP's Pasco complex, the making of the American hamburger starts in a noisy, blood-splattered chamber shielded from view by a metal steel plate. A cattle carcass emerges from a narrow chute to be dispatched in a process known as "knocking" or "stunning." In most days the chamber is manned by 10 of Mexico's millions of workers, who speak little English and earn about $10 an hour for killing up to 2,000 head per shift.

The tool of choice is a captive-bolt gun, which fires a small percussion charge, stunning the cattle. The cattle are36] 37 unconscious and have a 95 percent success rate. As a result, two years ago McDonald's, Burger King, and White Castle agreed to adopt by the American Meat Institute, the USDA's highest rate of animal mortality. The same practices were observed in the stockyard last year.

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Congressional Record — Senate

July 9, 2001

CONGRESSIONAL RECORD — SENATE

S7307

“Since seen thousands and thousands of cows go through the slaughter process alive.” IBP veteran Fuentes, the worker who was injured while working on live cattle, said in an affidavit. “We get seven minutes down the line and still be alive. I’ve been in the side-puller where they’re still alive. All the hide is stripped down the neck there.”

IBP, the nation’s top beef processor, denounced as an “appalling aberration” the problems captured on the tape. It suggested the events had been staged by activists trying to raise money and promote their agenda. “Like many other people, we were very upset over the hidden camera video,” the company said. “We do not in any way condone some of the livestock handling that was shown.”

After the video surfaced, IBP increased worker training and installed cameras in the slaughter area. The company also questioned workers and offered a reward for information leading to identification of those responsible for the video. One worker said IBP pressured him to sign a statement denying that he had seen live cattle on the line.

“Fuentes wrote wasn’t true,” said the worker, who did not want to be identified for fear of losing his job. “Cows still go alive every day. When cattle go into the side-puller, they do not get a chance to be killed.”

Independent assessments of the workers’ claims have been inconclusive. Washington State’s Department of Agriculture conducted a probe in 2000 that included an unannounced plant inspection. The investigators say they were detained outside the facility for an hour while their identity was confirmed. They saw no acts of animal cruelty once permitted inside.

Grandin, the Colorado State University professor, also inspected IBP’s plant, at the company’s request. Although she observed no live cattle being butchered, she concluded that the plant’s older-style equipment was “overloaded.” Grandin reviewed parts of the workers’ videotape and said there was no mistaking what she saw.

“There were fully alive beef on that rail,” Grandin said.

INCONSISTENT ENFORCEMENT

Preventing this kind of suffering is officially a top priority for the USDA’s Food Safety Inspection Service. By law, a humane slaughter violation is among a group of offenses that can result in an immediate halt in production and a resternning of the animal, you spend 20 minutes just talking about it,” said Colorado meat inspector Gary Dahl, sharing his private view. “Yes, the animal will be dead in a few no longer bad. But why not let him die with dignity?”

[From the Washington Post, Apr. 10, 2001]

Big Mac’s Big Voice in Meat Plants

( By Jody Warrick)

KANSAS CITY, Mo.—Never mind the bad old days, when slaughterhouses were dark places filled with blood and terror. As far as the world’s No. 1 hamburger vendor is concerned, Happy Meals start with happy cows.

That was the message delivered in February by a coterie of McDonald’s consultants to a group of people who oversee the slaughter of most of the cattle and pigs Americans will consume this year. From now on, McDonald’s says, its suppliers will be judged not only on how cleanly they slaughter animals, but also on how well they manage the small details in the final minutes. Starting with cheerful indoor lighting.

Cows like live.” explained Temple Grandin, an animal science assistant professor at Colorado State University and McDonald’s lead consultant on animal welfare. “Bright light is a distraction.”

And only indoor voices, please.

“We’ve got to get rid of the yelling and screaming coming out of people’s mouths,” Grandin scolded.

So much attention on atmosphere may seem misplaced, given that the beneficiaries are seconds away from death. But McDonald’s, the world’s largest restaurant chain, is sensitive when it comes to convincing the public of its compassion for the cows, chickens and pigs that account for the bulk of its menu. And in an increasingly influential animal rights groups, McDonald’s has been positioning itself in recent years as an ardent defender of farm animals. It announced last year it would buy eggs from companies that permit the controversial practice of withholding food and water from pigs to speed up production.

Now the company’s headfirst plunge into slaughter policing is revolutionizing the way slaughterhouses do business, according to a wide variety of industry experts.

“In this business, you have a post-McDonald’s era and a post-McDonald’s era,” said Grandin, who has studied animal-handling practices for more than 20 years. “The difference is measured in light-years.”

Others also have contributed to the improvement, including the American Meat Institute, which is drawing ever-larger crowds to its annual “humane-handling” seminars, such as the one in Kansas City. The AMI, working with Grandin, issued industry-wide guidelines in mid-February. Among the directives: McDon-ald’s, which decided in 1996 to conduct annual inspections at every plant that puts the beef into Big Macs. The chain’s auditors observe how animals are treated at each stage of the process, keeping track of even minor problems such as excessive squealing or the consistent treatment of cattle problems. And when the last scene of all comes, and death takes his master in its embrace and
his body is laid in the cold ground, no matter if all other friends pursue their way, there by his graveside will the noble dog be found, his head between his paws and his eyes sad but open, a silent witness, faithful and true, even unto death.

Mr. BYRD. Mr. President, after Senator STEVENS presents his statement, if he has no objection, I will present the managers' amendment. At that time, under unanimous consent, that if that managers' amendment may be agreed to, that a second managers' amendment may be in order if necessary.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I join the chairman of the Appropriations Committee in presenting this bill, S. 1077, to the Senate today. It provides necessary supplemental funds for the remainder of fiscal year 2001.

Let me start off by thanking Senator BYRD for his kind comments. It is a pleasure, once more, to present a supplemental bill to the Senate together with my friend from West Virginia. He is chairman now. I was chairman last year. I can tell the Senate, it makes no difference as far as we are concerned. We work together. We may have slight disagreements from time to time, but we work those out before coming to this Chamber. I commend him for the way he is now proceeding—as rapidly as possible—to catch up on the schedule of the appropriations bills so we may do our best to complete them by the end of this fiscal year.

As stated by Senator BYRD, this bill, as reported by our committee, conforms to the budget resources available for this year in both budget authority and outlays. The bill also matches the total request submitted by President Bush of $5.5 billion. The bill does not present any emergency appropriations. All spending is within the budget caps set by Congress and within the President’s request.

I asked Senator BYRD for reporting this bill out of the committee just 1 day after the House passed the companion measure, H.R. 2216. Our committee had only 2 weeks to consider the President’s request and House adjustments, and sent this bill forward with a unanimous vote in the committee. That is a great compliment to Senator BYRD as the chairman of the committee.

I also pleased to join him in recommending the bill to the Senate. I urge all Members to support the bill and to adhere to the tight spending limits that have been adhered to by the committee itself. Nearly 90 percent of the funding provided in this bill meets the ongoing needs of the Department of Defense.

I join also in commending the senior Senator from Hawaii, Mr. INOUYE, the chairman of the Defense Subcommittee, for his determination to meet the readiness, quality of life, and health care needs of the men and women who serve in our Nation’s Armed Forces.

In addition to the amounts requested by the President, funds are provided in the bill for the direct care system for military medicine. Additional funds are also proposed for Army real property maintenance and spare parts advocated by General Shinseki, the Army Chief of Staff. Funds are also provided for Navy ship depot maintenance and engagement initiatives for the commander in chief of the U.S. Pacific Command.

Based on extensive hearings by the Defense Subcommittee and numerous discussions with the Secretary of Defense, these amounts are adequate to meet the military’s needs through the end of this fiscal year.

This bill is no substitute for the significant increase in defense funds that have been sought by the President in his budget amendment. He has sought an additional $18.4 billion over the original request for fiscal year 2002. We are looking here only at amounts needed to meet the needs of this year, just 83 days from now, we will see the end of this fiscal year.

Amendments may be offered that would provide additional funds for this year—for 2001. I urge my colleagues to support these although we have adequately discussed the needs with the Department, and we believe there are no additional funds that could be spent within this fiscal year of 2001.

We will have an opportunity to assess the needs of the Department through the Defense authorization and appropriations bills for 2002, the fiscal year that we will address starting on October 1 of this year. We cannot address all those needs here. We do not need to deal with the 2002 requests in a 2001 supplemental appropriations bill.

I join my colleagues in their belief that we need additional resources for our national defense. I shall do my best to support the request of the President, end all disagreements, and we might be able to achieve, to really deal with the Department of Defense needs.

The underfunding of the past cannot be corrected in one supplemental bill. The new Secretary and the President of the United States have asked for our patience while they set new priorities and determine the most vital needs for our Armed Forces. We have had significant changes in our military strategy, and we should accord the President of the United States and the Secretary of Defense the time they have requested and wait for their report.

We need to move this bill out of the Senate today. I join Senator BYRD in committing to hold this bill to the level set by the committee and by the President for this fiscal year.

We need to get the military the money they need by getting this bill to conference and out of conference this week so that they will have these funds available for the remainder of this year. The Senate committee is working with my colleagues to secure the funding later this month, and in September, for fiscal year 2002 and future years.

In addition to the military requirements, there are several pressing disaster relief challenges that face our National Government. Through several conversations with the Director of the Federal Emergency Management Agency, Joe Allbaugh, I am anxious about the request for FY01 supplemental funding available for the rest of this calendar year.

So far, no further supplemental request has been received from the Office of Management and Budget for this fiscal year. It is my hope that additional information will be available to the conferees on this bill later this week.

Challenges from tropical storm Allison, ice storms in the Southeast, and other disasters continue to stress our response capability. Especially damaging was the loss to the medical research programs in Houston, TX, during the storm Allison.

The Senator from Texas, a member of our committee, has worked tirelessly to get the money to the States, and I look forward to working with her on that effort to the maximum extent possible.

With no budget constraints, I could support additional funding for the Department of Defense, for FEMA, for LIHEAP, and several other priorities sought by many of our colleagues.

We were asked by the President to limit funding in this bill to such amounts as could be spent during the remainder of this fiscal year. That is a reasonable request. We were also asked to live within the moneys available under the funding caps set by the Congress. We have already voted on that this year, and we feel constrained by those limits.

We were asked to break the cycle of “emergency” appropriations as simply a tool to get around budget limits. We do not support those actions, and the executive branch in the past has requested emergency appropriations each year. We hope we will not have to pursue that policy in the future.

This bill meets the demands of the Congress and the President of the United States for budget constraints.

We hope we can go to conference this week with the House. If the Senate passes this bill, as we hope, early tomorrow morning, that will take place. I implore all Senators to work with us today to complete this bill so that the House will get to the Armed Forces by the end of this week.

We have been in sort of a vicious cycle in recent years whereby the Chairman of the Joint Chiefs and the Chiefs themselves have had to determine how much they could spend in the early parts of the fiscal year because of constraints placed on them due to the deviation of funds for peacekeeping and other activities. That has led every year to a supplemental. This is one of those supplementals for funds necessary caught up to the basic needs of our military during the summertime. The steaming hours of our Navy, the flying hours of our Air Force and our...
Mr. CONRAD. I yield the floor and suggest the adoption of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 863

Mr. BYRD. Mr. President, I shall send to the desk a managers’ amendment supported by Senator STEVENS and myself. It consists of a package of amendments. These amendments have been cleared on both sides, and I know of no controversy concerning them.

The first amendment by Senators HUTCHISON and INHOFE for storm damage repair at military facilities in Texas and Oklahoma.

The next amendment is offered by Senators TORRICELLI and CORZINE to convey surplus firefighting equipment in New Jersey.

The next is an amendment by myself to make technical corrections in the energy and water chapter in title I.

Next is an amendment for storm damage repair at military facilities in Texas and Oklahoma offered by Senators HUTCHISON and INHOFE.

Next is an amendment by Senator STEVENS to increase the authorization for the Bassett Army Hospital.

Next is an amendment to provide $3 million for the U.S. Department of Agriculture for humane treatment of animals. That is my amendment. It is fully offset by a later amendment.

Next is an amendment offered by Senators GRASSLEY, ROBERTS, and STEVENS to expedite rulemaking for crop insurance.

Next is an amendment by Senators FEINSTEIN and BOXER and SMITH of Oregon for the Klamath Basin. Pending is offset in a later amendment.

This will be followed by an amendment by myself in the agriculture chapter to provide an offset for the $3 million for humane treatment of animals.

Next is an amendment to increase a rescission in the committee bill for the oil and gas guarantee program by $4.8 million.

Next is an amendment to strike section 2101 of the committee bill dealing with the Oceans Commission.

Next is an amendment to clarify the use of D.C. local funds to prevent the demolition by neglect of historic properties, followed by an amendment to redirect the expenditure of $250,000 within the Western Area Power Administration, followed by an amendment by Senator BURNS to provide a transfer of $3 million for the Bureau of Land Management energy permitting activities.

Next is an amendment by Senator HARKIN to clarify the timing of the dislocated worker rescission in the committee bill.

This will be followed by a technical change to a heading in the bill.

Next is an amendment offered by Senator DOMENICI to make a technical date correction in the Perkins Vocational Education Act.

Next is an amendment by myself and Senator STEVENS to authorize the expenditure of $20 million previously appropriated, subject to authorization, to the Corporation for Public Broadcasting for digital conversion by local stations.

Next is an amendment to allow the Architect of the Capitol to make payments to Treasury for water and sewer services provided by the District of Columbia.

These will be followed by amendments by Senators MURRAY and STEVENS to, one, appropriate $16,800,000 to repair damage caused in Seattle by the Nisqually earthquake; two, appropriate $2 million for a joint U.S.-Canada commission dealing with connection of the Alaska Railroad to the North American system; and, three, make certain technical corrections. The funding is offset by rescissions.

Next is an amendment by Senator INOUYE to transfer $1 million from the Morris K. Udall Foundation to the Native Nations Institute.

And finally an amendment to name a building in the State of Virginia for a late House colleague, Norm Sisisky, on behalf of Senator WARNER.

I ask unanimous consent that the amendments be considered en bloc and that the reading of the amendments be dispensed with.

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

Mr. BYRD. Mr. President, I ask unanimous consent that the managers’ amendment be agreed to and that it be considered as original text for the purpose of further amendment.

Mr. STEVENS. Reserving the right to object, Mr. President, it is my understanding that the chairman of the committee will offer another unanimous consent request for a second managers’ amendment.

Mr. BYRD. Yes. I make that request in conjunction with the request pending.

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

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

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S. 1077, SUPPLEMENTAL APPROPRIATIONS ACT, 2001—Continued

(Spending comparisons—Senate-reported bill (in millions of dollars))
The PRESIDING OFFICER. The clerk will report the amendment by number for the information of the Senate.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD], and Mr. STEVENS, proposes an amendment numbered 861.

The PRESIDING OFFICER. The amendment has been agreed to.

The amendment (No. 861) was agreed to.

The text of the amendment is printed in today’s Record under “Amendments Submitted.”

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. The Senator’s unanimous consent request included the request for a second managers’ amendment; am I correct?

The PRESIDING OFFICER. That request has been granted.

Mr. STEVENS. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, this would be a very good time for all of our colleagues to offer their amendments if they have amendments. Senator Stevens and I are prepared to listen to Senators propose their amendments, and we are prepared to respond to their proposals. Much time could be saved if Senators will come to the floor and offer those amendments at the very earliest. Of course, if Senators don’t have amendments, that will suit the two of us just as well.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, seeing no other Senator who seeks recognition at this time, I shall speak on another matter notwithstanding the fact that the Pastore rule has not run its course.

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

CRUELTY TO ANIMALS

Mr. BYRD. Mr. President, a few months ago, a lady by the name of Sara McMunnert accidentally tapped a sports utility vehicle from behind on a busy highway in California. The angry owner of the bumped vehicle, Mr. Andrew Burnett, stormed back to Ms. McMunnert’s car and began yelling at her; and then reached through her open car window with both hands, grabbed her little white dog and hurled it onto the busy roadway. The lady sat helplessly watching in horror as her frightened little pet ran for its life, dodging speeding traffic to no avail. The traffic was too heavy and the traffic was too swift.

Imagine her utter horror. Recently, Mr. Burnett was found guilty of animal cruelty by a jury in a California court, so my faith in the wisdom of juries was restored. Ever since I first heard about this monstrous brutish barbaric act, I have wondered what would drive any sane person to do such a thing. There are some people who have blamed this senseless and brutal incident on road rage. But it was not just road rage, it was bestial cruelty. It was and is an outrage. It was an act of sheer depravity to seize a fluffy, furry, innocent little dog, and toss it onto a roadway, and most certainly to be crushed under tons of onrushing steel, iron, glass, and rubber, while its terrified owner, and perhaps other people in other vehicles, watched.

There is no minimizing such cruelty and resorting to the lame excuse that, “after all, it was just a dog.”

The dog owner, Ms. McMunnert, puts the incident in perspective. Here is what she said: It wasn’t just a dog to me. For me, it was my child. A majority of pet owners do believe their pets to be family members. That is the way I look at my little dog, my little dog Billy-Billy Byrd. I look at him as a family member. When he passes away, I will shed tears. I know that. He is a little white Maltese Terrier. As a pet owner and dog lover, I know exactly what that lady means, and so did millions of other dog lovers who could never ever fathom such an act.

For my wife and me, Billy Byrd is a key part of our lives at the Byrd House in McLean. He brings us great joy and wonderful companionship. As I said on this matter a few moments ago, if I ever saw in this world anything that was made by the Creator’s hand that is more dedicated, more true, more faithful, more trusting, more un-deviant than this little dog, I am at a loss to state what it is. Such are the feelings of many dog owners.

Dogs have stolen our hearts and made a place in our homes for thousands of years. Dogs fill an emotional need in man and they have endured as guards and sentries and watchdogs; they are hunting companions. Some, like Lassie and Rin Tin Tin, have become famous actors. But mostly, these sociable little creatures are valued especially as loyal comforters to their human masters. Petting a dog can make our blood pressure drop. Try it. Our heart rate slows down. Try it. Our sense of anxiety diminishes, just goes away. Researchers in Australia have found that dogs owners have a lower risk of developing high blood pressure, and lower cholesterol levels than those people who do not own dogs. Researchers in England have demonstrated that dog owners have far fewer minor health complaints than those people without a dog. Our dogs are about the most devoted, steadfast companions that the Creator could have designed. They are said to be man’s best friend and, indeed, who can dispute it?

The affection that a dog provides is not only unlimited, it is unqualified, unconditional. A faithful dog does not judge its owner, it does not criticize him or her, it simply accepts him or her for what they are, no matter how we dress, no matter how much money we have or don’t have, and no matter what our social standing might be or might not be. No matter what happens, one’s dog is still one’s friend.

A long, frustrating day at work melts into insignificance—gone—with the healing salve of warm, excited greetings from one’s ever faithful, eternally loyal dog.

President Truman was supposed to have remarked: If you want a friend in Washington, buy a dog. I often think about Mr. Truman’s words. No wonder so many political leaders have chosen the dog as a faithful companion and confidante. For Republican leader, Robert Dole, was constantly bringing his dog, “Leader”—every day—to work with him. President Bush has “Barney” and “Spot.” President Truman had an Irish setter named “Buddy.” Senator Dole had a golden retriever named “Lucky.” The first President Bush had Millie.

Of course, there was President Franklin Roosevelt and his dog, “Fala.” They had such a close relationship that his political opponents once attempted to attack him by attacking his dog. Eleanor Roosevelt recalled that for months after the death of her husband, every time someone approached the door of her house, Fala would run to it in excitement, hoping that it was President Roosevelt coming home.

The only time I remember President Nixon becoming emotional, except when he was resigning the Presidency, perhaps more so in the first instance, was in reference to his dog “Checkers.”

At the turn of the century, George G. Vest delivered a deeply touching summation before the jury in the trial involving the killing of a dog, Old Drum. This occurred, I think, in 1869. There were two brothers-in-law, both of whom had fought in the Union Army. They lived in Johnson County, MO. One was named Leonidas Hornsby. The other was named Charles Burden. Burden owned a dog, and by animal was named “Old Drum.” He was a great hunting dog. Any time that dog barked one could know for sure that it was on the scent of a raccoon or other animal. Leonidas Hornsby was a farmer who raised livestock and some of his calves were used as hunting dogs. Burden killed one of those animals. He, therefore, swore to shoot any animal, any dog that appeared on his property.
One day there appeared on his property a hound. Someone said: “There’s a dog out there in the yard.” Hornsby said: “Shoot him.”

The dog was killed. Charles Burden, the owner of the dog, was not the kind of man to take something like this lightly. He went to court. He won his case and was awarded $25. Hornsby appealed, and, if I recall, on the appeal there was a reversal, whereupon the owner of the dog decided to employ the best lawyer that he could find in the area.

He employed a lawyer by the name of George Graham Vest. This lawyer gave a summation to the jury. Here is what he said:

The best friend that a man has in this world may turn against him and become his enemy. His son or daughter whom he has reared with loving care may prove ungrateful. Those who are nearest and dearest to us, those whom we trust with our happiness and our good name may become traitors to their faith. The money that a man has, he may lose. It flies away from him perhaps when he needs it most. A man may sacrifice his reputation in a moment of ill-considered action.

The tender dog is the one that never deserts him, the one that never proves ungrateful or treacherous, is the dog.

George Graham Vest. This lawyer gave a recent news program that told of a man who was going around killing dogs and selling the meat from them. A couple of years ago, NBC News reported that American companies were importing and selling toasters made in China that were decorated with the fur from dogs that were raised and then slaughtered just for that purpose.

And now we have this monster—I do not hesitate to overrate him—who, beastly toward animal cruelty, decided that he had the right to grab a harmless little dog and hurl it to its certain death. It makes one ponder the question, doesn’t it, Which was the animal? Burnett, or Leo, the little dog? Of course we know the answer.

The point is this: We have a responsibility to routinely condemn such abject cruelty. Apathy regarding incidents such as this will only lead to more deviant behavior. And respect for all, life, and for humane treatment of all creatures is something that must never be lost.

The Scriptures say in the Book of Proverbs, “A righteous man regardeth the life of his beast, but the tender mercies of the wicked are cruel.”

Mr. President, I am concerned that cruelty toward our faithful friend, the dog, may be reflective of an overall trend toward animal cruelty. Recent news accounts have been saturated with accounts of such brutal behavior. A year or two ago, it was revealed that macabre videos showing small animals, including hamsters, kittens, and monkeys, being crushed to death were selling for 99 cents each. And just a few days ago, there were local news accounts of incidents in Maryland involving decapitated geese being left on the doorsteps of several homes in a Montgomery County community.

Our inhumane treatment of livestock is becoming widespread and more and more barbaric. Six-hundred-pound hogs—they were pigs at one time—raised in 2-foot-wide metal cages called gestation crates, in which the poor beasts are unable to turn around or lie down in natural positions, and this way they live for months at a time.

On profit-driven factory farms,veal calves are confined to dark wooden crates so small that they are prevented from lying down or scratching themselves. These creatures feel; they know pain. They suffer pain just as we humans do. And when hens are confined to battery cages. Unable to spread their wings, they are reduced to nothing more than an egg-laying machine.

Last April, the Washington Post detailed the inhumane treatment of livestock in our Nation’s slaughterhouses. A 23-year-old Federal law requires that cattle and hogs to be slaughtered must first be stunned, thereby rendered insensitive to pain, but mounting evidence indicates that this is not always being done, that these animals are sometimes cut, skinned, and scalped while still able to feel pain.

A Texas beef company, with 22 citations for cruelty to animals, was found chopping the hooves off live cattle. In another Texas plant with about two dozen violations, Federal officials found nine live cattle dangling from an overhead chain. Secret videos from an Iowa pork plant show hogs squealing and kicking as they are being lowered into the boiling water that will soften their hides, soften the bristles on the hogs and make them easier to skin.

I used to kill hogs. I used to help lower them into the barrels of scalding water, so that the bristles could be removed easily. But those hogs were dead when we lowered them into the barrels. The law clearly requires that these poor creatures be stunned and rendered insensitive to pain before this process begins. Federal law is being ignored.

Animal cruelty abounds. It is sickening. It is infuriating. Barbaric treatment of helpless, defenseless creatures must not be tolerated even if these animals are being raised for food—and even more so, more so. Such insensitivity is insidious and can spread and is dangerous. Life must be respected and dealt with humanely in a civilized society.

So for this reason I have added language in the supplemental appropriations bill that directs the Secretary of Agriculture to report on cases of inhumane animal treatment in regard to livestock production, and to document the response of USDA regulatory agencies.

The U.S. Department of Agriculture agencies have the authority and the capability to take action to reduce the disgusting cruelty about which I have spoken. These are animals, yes. But they, too, feel pain. These agencies can do a better job, and with this provision they will know that the U.S. Congress expects them to do better in their inspections, to do better in their enforcement of the law, and in their research for new, humane technologies. Additionally, those who perpetuate such barbaric practices will be put on notice that they are being watched.

I realize that this provision will not stop all the animal life in the United States from being mistreated. It will not even stop all beef, cattle, hogs and other livestock from being tortured. But it can serve as an important step
toward alleviating cruelty and unnecessary suffering by these creatures.

Let me read from the Book of Genesis. First chapter, versus 24–26 reads:

And God said—

Who said? God said.

And God said, Let the Earth bring forth the living creature after his kind, cattle, and creeping thing, and beast of the Earth after his kind: and it was so.

And God made—

Who made?

And God made the beasts of the earth after his kind, and cattle after their kind, and every thing that creepeth upon the Earth after his kind: and God saw that it was good.

And God said—

The Senior assistant bill clerk proceeded to call the roll.

The senior assistant bill clerk proceeded to call the roll.

SUPPLEMENTAL APPROPRIATIONS ACT, 2001—Continued

Mr. BYRD. Mr. President, I ask unanimous consent the order for the floor to proceed with:

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

Mr. BYRD. Mr. President, I wish to request—I understand my colleague, Senator STEVENS, has already done this with full respect to his cloakroom. Let us strive to be good stewards and not defile God's creatures or ourselves by tolerating unnecessary, abhorrent, and repulsive cruelty.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

AMENDMENT NO. 863

Mr. REID. Mr. President, I ask unanimous consent that the amendment be laid aside.

Mr. REID. Mr. President, I ask unanimous consent that the amendment be laid aside.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. SCHUMER, Mr. REID, Mr. DODD, Mr. LIEBERMAN, and Mr. CORZINE, proposes an amendment numbered 862.

Mr. REID. 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 amount provided for debt reduction, as directed by section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended; provided, further, That the entire amount under this heading shall be available only to the extent that an official budget request that specifies that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

Provided, further, That the total amount of the rescission for Aircraft Procurement, Navy, 2002/2003, under section 1204 is hereby increased by $594,000,000."

Mr. REID. Mr. President, I ask unanimous consent that amendment be laid aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. BYRD. Mr. President, I am going to ask that the Senate recess awaiting the call of the Chair. I will be available, and Senator STEVENS will be available anytime a Senator comes to the floor and wishes to offer an amendment or to make a statement on any matter. This will merely free the floor staff for a moment to have lunch, if necessary.

Mr. President, seeing no Senator seeking recognition, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 3:24 p.m., recessed until 3:27 p.m. and reassembled when called to order by the Presiding Officer (Mr. GRAHAM).

The PRESIDING OFFICER. The Senator from Idaho is recognized.

AMENDMENT NO. 864

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for Mr. ROBERTS, for himself, Mr. CLELAND, Mr. CRAIG, Mr. MILLER, Mr. CRAPO, and Mr. BROWNACK, proposes an amendment numbered 864.

Mr. CRAIG. Mr. President, I ask unanimous consent that the amendment be laid aside.

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

The amendment is as follows:

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Mr. CRAIG. Mr. President, recently the Air Force revealed as part of its programmed budget decision its plan to cut the B-1B force structure by more than one-third. This has a substantial impact on the viability of Air Force bases that currently have a B-1 mission, and actually eliminates the B-1B entirely from Mountain Home Air Force Base in my State, from McConnell Air Force Base in Kansas, and from Robins Air Force Base in Georgia.

Such a drawdown in the B-1B fleet has the same national impact as would BRAC. Clearly, decisions of this magnitude should not be made without consultation with Congress. There was no opportunity for advice and consent on the part of the Air Force or the Office of the Secretary of Defense.

Therefore, I offer this amendment on behalf of myself and Senator Rosenthall to preempt any precipitous action by the Department of Defense that could circumvent the right of Congress to review such a significant change in our Air Force defense structure.

This amendment will prevent any B-1B being used for the preparation of retiring, dismantling, or realigning any portion of the B-1B fleet. This would allow Congress the necessary time to consider the significance of the Air Force’s decision and its impact with regard to the fiscal year 2002 defense budget.

The B-1B satisfies a very specific warfighting requirement as our fastest long-range strategic bomber capable of flying intercontinental missions without refueling. With its flexible weapons payloads and a high carrying capacity, it is extremely effective against time-sensitive and mobile targets.

While cutting the force structure is advocated as a means of cost savings and weapons upgrade, it comes at a significant national security cost. Removal of the B-1B from Mountain Home Air Force Base calls into question DoD’s support of the composite wing concept and raises other long-term strategic and mission questions.

The composite wing is our Nation’s “911 call” in terms of confidence that requires deterrence and deployment over long distances. Do we want to eliminate our nation’s 911 call, particularly in light of a future defense strategy that requires the increase capabilities that the B-1B offers as a long-range, low-altitude, fast-penetration bomber?

Mountain Home Air Force Base is unique.

At Mountain Home, we train our men and women in uniform as they are expected to fight by bringing together the composite wing and an adjacent premier training range with significant results that will ensure that we are the next generation air power leader. We have composite wing training twice a month, premier night, low-altitude training, dissimilar air combat training, and the current composite wing configuration fulfills the air expeditionary wing requirement 100 percent. Without that, the B-1-B in the composite wing, our target load capability is reduced by 60 percent.

Removal of the B-1-B from the three bases will actually increase costs while reducing operational readiness: The B-1 missions for the National Guard at McConnell and Robbins Air Force bases have a 15 percent higher mission capability rate than active duty units at Dyess Air Force Base in Texas and Ellsworth Air Force Base in South Dakota, with the terms of at least as favorable treatment as those in the year 2001, would be more consistent with past congressional intent and previous bilateral relations. Proportionality is something that I don’t think can be or should be effectively argued whereas they did not respond when our aid increases went up.

We will be bringing a letter to the floor insisting that Israel stay consistent with what was agreed to following 1979 as it related to turning, if you will, the commercial support programs into cash transfer assistance. We think we have honored our agreement with Israel. The amendment simply requires them to honor their agreement with us.

I yield the floor.

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

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

USE OF MEDICARE AND SOCIAL SECURITY TRUST FUNDS

Mr. CONRAD. Mr. President, I enjoyed reading the Washington Post this morning and listening to the weekend talk shows. I noticed I was the subject of a number of the articles and a number of the shows. I must say, I didn’t recognize the policy that was being ascribed to me. Somehow, people have taken what I have proposed and twisted it and distorted it in a way that is almost unrecognizable. I think after examination it is clear why they have done that, but we will get into that in a moment.

The first article I would refer to is Robert Novak’s piece in this morning’s Washington Post that was headlined, “Kent Conrad’s Show Trial.”
Mr. Novak asserted that a hearing that I will be chairing later this week to talk about the fiscal condition of the country and where we are headed is some kind of a show trial. I want to assure Mr. Novak and anyone else who is listening, I have no interest in show trials. My interest is in where we find ourselves after the fiscal policy that the President proposed has been adopted in the Congress because I think it has created serious problems.

Mr. Daniels, the head of the Office of Management and Budget, was on one of the talks this weekend and said I was engaged in what he referred to as “medieval economics.” I kind of like better the way Mr. Novak referred to me. He accused me of “antique fiscal conservatism.” “Antique fiscal conservatism,” that is the characterization he applied to the policies I proposed. Mr. Daniels called it “medieval economics.”

What is it that I have talked about that has aroused such ire? All I have said is I don’t think we ought to be using the trust funds of Medicare and Social Security for other purposes.

That is what I have said. I think that is the case. I don’t think that we should be using the trust funds of Social Security and Medicare for other purposes. After I made that statement, and after I noted that the latest numbers that come from this administration are in fact, not very good, I will be doing precisely that this year and next year, Mr. Daniels responded by suggesting that means Senator Conrad was doing precisely that this year and next year.

It is true that the President’s fiscal year 2001, if we start with the total surplus of $275 billion and take out the Social Security trust fund surplus of $156 billion and the Medicare trust fund of $26 billion, that leaves us with $92 billion. The cost of the President’s tax cut which actually passed the Congress wasn’t what he proposed.

It was substantially different than he proposed because it was more front-end loaded, $74 billion this year. And $33 billion of that out of this year into next year—a 2-week delay in corporate tax receipts in order to make 2002 look better, because they knew they were going to have a problem of raising the Medicare trust fund in 2002.

What did they do? They delayed certain corporate receipts by 2 weeks—$33 billion worth—and put them over into 2002. That added to the cost of the tax bill.

There is only $40 billion of real stimulus in this tax bill that is going to go out into the hands of the American people during this year. But the cost is $74 billion because of this cynical device they use to delay corporate tax receipts to make 2002 look better.

As we go down and look at the costs of other budget resolution policies for this year—largely the bill that is on the floor right now, the supplemental appropriations bill for certain emergencies—and we look at possible economic scenarios, the administration has suggested will come—that is, we are not going to receive the amount of revenue anticipated—we then see that we are into the Medicare trust fund by $17 billion this year. That is what it shows for this year.

We had distinguished economists testify before the Budget Committee. Based on what they said, next year we are going to not only be using the entire Medicare trust fund surplus but we are actually going to be using some of the Social Security trust fund as well, $24 billion next year; that is, if we take into account a series of other policy choices that are going to have to be made.

That is the question I am raising. Mr. Daniels wants to change that into a discussion of having a tax increase this year. I don’t know anyone who is advocating a tax increase this year. I am certainly not. I advocated a tax reduction. But we don’t have a forecast of economic slowdown for the next 10 years. That is not the forecast of the administration. They are forecasting strong economic growth. That is their forecast. Yet with a forecast of strong economic growth starting next year, we see that we are into the Medicare trust fund and the Social Security trust fund next year. We have problems with the two funds in 2003 and 2004, and that is before a single appropriations bill is signed.

This is not a question of the Congress spending more money and putting us back into the deficit ditch. That is not this situation. We are in trouble just based on the budget resolution that we have in hand—by the Republican budget resolution, I might add.

Their tax cut—the tax cut supported by this President, and the reduction in revenue that they themselves are predicting—we have trouble going into the Medicare and Social Security trust funds just on the basis of those factors: The budget resolution that they endorsed, the tax cut that they proposed and the President signed, and the economic slowdown that they are predicting.

We are into the trust funds already. That is before the President’s request for additional funding for defense. He has already asked for $18 billion for next year. That has a 10-year effect of over $200 billion.

The question I am raising is, Where should that money come from? We are already into the trust fund before the President’s defense request. Should that come out of the trust funds of Medicare and Social Security? Should we raise taxes to fund it? Should we cut other spending to fund it? Where should the money come from? Or, does the administration believe we should just go further into the Social Security and Medicare trust funds? I hope that is not what they believe because I think that would be a mistake.

Again, this is all within the context of their forecast of an economic boom, of a growing economy. Is that circumstance the right policy to fund the President’s additional spending requests for defense and the right policy to take it out of the Medicare trust fund, the Social Security trust fund? I don’t think so. I think that is a serious mistake. As I say, we are already in trouble. We are already into the trust funds before the President’s defense request, before any new spending for education.

Remember that the Senate just passed, almost unanimously, a bill that authorized more than $300 billion of new spending for education. It is not in the budget resolution. We can see that if we fund just a part of that—if we only fund $150 billion of it—that makes the difference between serious and the situation with the trust funds more serious.

This is before any funding for natural disasters. There is no funding for natural disasters in the budget. Yet we know we spend $5 billion to $6 billion a year on our natural disasters. Should that funding come out of the Medicare and Social Security trust funds? That is exactly where we are headed.
The question is, Is that the right policy? That is before the tax extenders are dealt with. Those are popular measures such as the research and development tax credit and the wind and solar energy credits. Some of them run out this year. We are going to extend them. Yet, that is not in the budget. Is it the right policy to take the funds necessary to extend those tax credits out of the Medicare and Social Security trust funds? Because that is what we are poised to do.

The alternative minimum tax—that now affects some 2 million taxpayers, but under the tax bill that has passed it is going to affect 35 million taxpayers—just to fix the part of the alternative minimum tax that is caused by the tax bill we just passed would cost over $200 billion to fix. That is not in the budget. Should that money come out of the Medicare and Social Security trust funds? Because that is what we are poised to do.

I doubt we do not think that is a good policy. I do not think we should pay for a defense buildup out of the trust funds of Social Security and Medicare. I do not think we should pay for additional education funding out of the trust funds. I do not think we should pay for natural disasters or tax extenders or the alternative minimum tax fix out of the Medicare and Social Security trust funds. Because we need to run surpluses there to prepare for the million baby boomers who turn 65 this year or for the years to follow. They are projecting a strong economic slowdown. Yet that is not in the budget. I want to turn to economic growth.

What I am saying is, if we are in a period of strong economic growth, it is not right to raid the trust funds of Medicare and Social Security for other purposes. It is just wrong. It should not be done. But that is exactly where we are headed. The record is just as clear as it can be. We are going to be into the Medicare trust fund and even the Social Security trust fund next year just with the budget resolution that has passed, and just with the slowdown in the economy that we already see. That is where we are. That is before any additional money for defense. That is before any additional funding for educational purposes. That is money for natural disasters or tax extenders or to fix the AMT problem. And that is before additional economic revisions we anticipate receiving in August from the Congressional Budget Office.

Let me explain. What matters is what we see is a sea of red ink, what we see is a very heavy invasion of both the Medicare trust fund and the Social Security trust fund. That is where we are headed.

The question I am posing to my colleagues, and to this administration, is, Does that make any sense as a policy? I do not think so. I do not think this is where we want to go, especially given the fact that we know in 11 years the baby boomers start to retire and then our fiscal circumstance changes dramatically.

We have to get ready for that eventuality. The first thing to get ready is not to raid the Medicare trust fund and the Social Security trust fund. We do not have stopped it. We have used that money to pay down debt. That is the right policy.

I hope very much we do not go back to the bad old days of raiding every trust fund in sight in order to make the bottom line look as if it balances. I suggest to my colleagues, using the Medicare trust fund or the Social Security trust fund for the other costs of Government is not a responsible way to operate. That is the point I have made. I do not object to a tax cut as a policy at a time of economic slowdown. I want to repeat, my proposal that I gave my colleagues was for a substantial tax cut this year, fiscal stimulus, $60 billion of fiscal stimulus that I supported in this year. But we are not talking about an economic slowdown being projected by this administration for the next 10 years. They are projecting a strong return to economic growth.

I do not think we have to worry about the Treasury, the top spokesman on economic policy this administration, at a meeting overseas saying they anticipate a return to strong economic growth next year. That is their projection. That is their forecast.

What I am saying is, if we are in a period of strong economic growth, it is not right to raid the trust funds of Medicare and Social Security for other purposes. It is just wrong. It should not be done. But that is exactly where we are headed. The record is just as clear as it can be. We are going to be into the Medicare trust fund and even the Social Security trust fund next year just with the budget resolution that has passed, and just with the slowdown in the economy that we already see. That is where we are. That is before any additional money for defense. That is before any additional funding for educational purposes. That is money for natural disasters or tax extenders or to fix the AMT problem. And that is before additional economic revisions we anticipate receiving in August from the Congressional Budget Office.

Where we are headed is what matters. What we see is a sea of red ink, what we see is a very heavy invasion of both the Medicare trust fund and the Social Security trust fund. That is where we are headed.

The question I am posing to my colleagues, and to this administration, is, Does that make any sense as a policy? I do not think so. I do not think this is where we want to go, especially given the fact that we know in 11 years the baby boomers start to retire and then our fiscal circumstance changes dramatically.

We have to get ready for that eventuality. The first thing to get ready is not to raid the Medicare trust fund and the Social Security trust fund at a time of surpluses. That is just wrong. They can call me someone who is advocating medieval economics. I do not think so. I do not think this is good old-fashioned, Midwestern common sense. You do not take the retirement funds of your employees to fund the operations of the organization would be headed for a Federal institution, but it would not be the Congress of the United States; they would be headed for a Federal prison because that is fraud, to take money that is intended for one purpose and to use it for another.

We have stopped that practice. In the last year we stopped raiding the trust funds to do those money for other purposes. We have stopped it. We have used that money to pay down debt. That is the right policy.

I hope very much we do not go back to the bad old days of raiding every trust fund in sight in order to make the bottom line look as if it balances. I suggest to my colleagues, using the Medicare trust fund or the Social Security trust fund for the other costs of Government is not a responsible way to operate. That is the point I have made. I do not object to a tax cut as a policy at a time of economic slowdown. I want to repeat, my proposal that I gave my colleagues was for a substantial tax cut this year, fiscal stimulus, $60 billion of fiscal stimulus that I supported in this year. But we are not talking about an economic slowdown being projected by this administration for the next 10 years. They are projecting a strong return to economic growth.

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What I am saying is, if we are in a period of strong economic growth, it is not right to raid the trust funds of Medicare and Social Security for other purposes. It is just wrong. It should not be done. But that is exactly where we are headed. The record is just as clear as it can be. We are going to be into the Medicare trust fund and even the Social Security trust fund next year just with the budget resolution that has passed, and just with the slowdown in the economy that we already see. That is where we are. That is before any additional money for defense. That is before any additional funding for educational purposes. That is money for natural disasters or tax extenders or to fix the AMT problem. And that is before additional economic revisions we anticipate receiving in August from the Congressional Budget Office.

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The question I am posing to my colleagues, and to this administration, is, Does that make any sense as a policy? I do not think so. I do not think this is where we want to go, especially given the fact that we know in 11 years the baby boomers start to retire and then our fiscal circumstance changes dramatically.

We have to get ready for that eventuality. The first thing to get ready is not to raid the Medicare trust fund and the Social Security trust fund at a time of surpluses. That is just wrong. They can call me someone who is advocating medieval economics. I do not think so. I do not think this is good old-fashioned, Midwestern common sense. You do not take the retirement funds of your employees to fund the operations of the government. You do not take the health care funds of your private-sector company in America that could do that.

I think this is very clear, the circumstance we face. We are already in trouble just with the budget resolution that has passed, just with the tax cut that has passed, just with the economic slowdown that is being forecasted in the next 2 years. The trouble only gets more severe, only gets deeper, when you factor in the President’s request for a big increase in defense. I think it is fair to ask the President, and this administration, how do you intend to pay for it? Do you intend to use the money from the trust funds to do this big buildup? Do you intend to use the Medicare and Social Security trust funds to pay for natural disasters? Do you intend to use the Medicare and Social Security trust funds to pay for the tax extenders? I do not think so. I do not think we know what their recommendation is.

Mr. President, I will conclude as I began by saying I am not for a tax increase at a time of economic slowdown. That does not make good economic sense. The administration is not forecasting an economic slowdown next year or for the years to follow. They are forecasting strong economic growth. Yet the policies they have laid out and the plan they have put in place lead to huge, dramatic raids on both the Medicare and Social Security trust funds each and every year for the next 9 years. I believe that is a mistake. I do not support that policy.

I support, certainly, fiscal stimulus at a time of economic downturn. But when we have forecasts of strong economic growth, to build in a policy that says the way we pay for the operations of this Government is to take money from the Medicare trust fund and the Social Security trust fund—count me out. I don’t care what name you call me, I don’t want any part of it. I don’t care if I am the only vote that says: I am not, at a time of economic growth, for using the trust funds of Medicare and Social Security to fund the other operations of Government. That is wrong. I believe it is wrong in every way. And I want no part of it. But that is where we are headed.

Mr. DORGAN. I wonder if the Senator would yield for a question.

Mr. CONRAD. I am happy to yield.

Mr. DORGAN. Mr. President, I noticed some press coverage today by some folks who were raising some questions about my colleague’s numbers. I wonder if the Senator would answer this question. Is it not the case that this question of tax cuts and fiscal policy was always based on surpluses we do not yet have? Is it not the case that this rosy scenario everybody talked about—especially conservatives coming to the floor of the Senate—was: “This economy is going to grow forever. Let’s anticipate surpluses year after year. And let’s put in place tax and spending decisions that anticipate that”?

My colleague, Senator CONRAD, and I and others repeatedly said the conservative viewpoint would be a viewpoint that says let’s be cautious. Yes, when we have surpluses, let’s provide some tax relief. Let’s provide some investments we need. But let’s a little bit cautious in case those surpluses don’t materialize.
Yet here we are, just a couple of months from those fiscal policy decisions, and we are going to have a midsession review by the Office of Management and Budget which is what I would like to ask the chairman of the Budget Committee about. That midsession review almost certainly will tell us this economy is much softer than anticipated and we will not have the surpluses we expected. Things might get better, but they might not. And if they don't, we might very well head back into very significant deficit problems.

I ask my colleague, when does the Office of Management and Budget give us their midsession review? Is that supposed to be in July?

Mr. CONRAD. Typically, we would get it in July or August. We are hearing already from the Congressional Budget Office that they anticipate that the forecast will be somewhat reduced because economic growth is not as strong as anticipated. That means we will have less revenue than was in the forecast.

My colleague and I warned repeatedly that these 10- year forecasts are uncertain. Nobody should be counting on everything actually being realized.

Some said to us in rejoinder: There is going to even be more money. I remember some of my colleagues on the Budget Committee saying they think the forecast is too low.

I hope over time that will be the case. I hope the economy strongly recovers. I hope we have even more revenue. That would be terrific. But I don't think we can base Government policy on that. We certainly can't bet on every dime of the revenue that is in a 10-year forecast.

The reason it matters so much is because if we look ahead—these are the years of surpluses we are in now—but, according to the Social Security, what happened, starting in the year 2016, we start to run into deficits in both Medicare and Social Security. Medicare is the yellow part of the bars; Social Security is the red. These surpluses that we now enjoy turn to massive deficits.

That is why some of us think we have to save the Social Security trust fund for Social Security and the Medicare trust fund for Medicare, and that while that is necessary, it is not sufficient.

We need to do even more than that to prepare to come because we have a demographic tidal wave called the baby boom generation. They are going to turn these surpluses we have now into deficits. And if we start, at a time of surpluses, by raiding the trust funds, this situation becomes much worse, far more serious.

I don't think name calling is going to carry the question here. They can accuse me of medieval economics or antiquated fiscal conservatism. I don't think it is either one to say you ought to reserve the trust funds of Medicare and Social Security for the purposes intended. You ought not to use the money to finance the other functions of Government, however worthy the other functions are. I don't think we should use the money at a time of economic growth, which is what the administration is projecting for next year and beyond. Yet we see, according to the latest numbers, that we are already into the trust funds. That is before a single appropriation bill has passed the Senate, before a single one has passed.

The question is, Are we going to dig the hole deeper? What are we going to do about the President's defense request? He wants $38 billion next year. The effect over 10 years is in the range of $200 billion from a request like that. That is not in the budget. Since we are already into the trust funds, it simply means that if we were to approve such a request, we would go deeper into the trust funds and Medicare and Social Security to defend or to finance that defense buildup.

How are we going to pay for natural disasters? At a time of economic growth, should we be funding natural disasters out of the trust funds of Medicare and Social Security? I don't think so.

They may call that antique fiscal conservatism. I will wear that badge of honor, that policy of protecting the trust funds of Medicare and Social Security. Call me any name you want. That is exactly the right thing to do. Certainly in a time of economic growth, you shouldn't be using trust funds to fund the other needs of Government. That is shortsighted. It is irresponsible. It is wrong. I am not going to support it.

I believe at the end of the day the American people will not support it because they have common sense. They know this doesn't add up. They know if you have already got a problem, you don't dig the hole deeper before you start filling it in. That is just common sense.

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

The PRESIDING OFFICER (Mr. NELSON). The time is 3:50 p.m. Mr. BYRD?

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

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

The amendment is as follows:

(Purpose: To protect the social security surplus by preventing on-budget deficits)

At the appropriate place, insert the following:


(a) SHORT TITLE—This section may be cited as the “Protect Social Security Surpluses Act of 2001”.

(b) REVISION OF ENFORCING DEFICIT TARGETS.—Section 233 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 903) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) EXCESS DEFICIT; MARGIN.—The excess deficit is, if greater than zero, the estimated deficit for the budget year, minus the margin for that year. In this subsection, the margin for each fiscal year is 0.5 percent of the estimated total outlays for that fiscal year;"

and

(2) by striking subsection (c) and inserting the following:

"(c) ELIMINATING EXCESS DEFICIT.—Each non-exempt account shall be reduced by a dollar amount calculated by multiplying the baseline level of sequesterable budgetary resources in that account at that time by the uniform percentage necessary to eliminate an excess deficit;" and

(3) by striking subsections (g) and (h).

(c) ECONOMIC AND TECHNICAL ASSUMPTIONS.—Notwithstanding subsection 254(j) of the Balanced Budget and Emergency Deficit
Control Act of 1985 (2 U.S.C. 90c(j)), the Office of Management and Budget shall use the economic and technical assumptions underlying the report issued pursuant to section 1106 of title I of the Budget Analytical Report, for purposes of determining the excess deficit under section 253(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, as added by sub-section (a).

(d) Application of Sequestration to Budget Accounts.—Section 256(k) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 90c(k)) is amended by—

(1) striking paragraph (2); and

(2) redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively.

(e) Strengthening Social Security Points of Order.—

(1) In general.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by inserting at the end the following:

"(g) Strengthening Social Security Point of Order.—It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget, amendment thereto or conference report thereon or any bill, joint resolution, amendment, motion, or conference report that would violate or amend section 13301 of the Budget Enforcement Act of 1990." 

(2) Super Majority Requirement.—

(A) Point of Order.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting "312(g)," after "310(c)(2),"

(B) Waiver.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting "312(g)," after "310(d)(2),"

(3) Enforcement in Each Fiscal Year.—

The Congressional Budget Act of 1974 is amended in—

(A) section 301(a)(7) (2 U.S.C. 632(a)(7)), by striking "for the fiscal year" through the period and inserting "for each fiscal year covered by the resolution"; and

(B) section 311(a)(3) (2 U.S.C. 642(a)(3)), by striking beginning with "for the first fiscal year" through the period and insert the following: "for any of the fiscal years covered by the concurrent resolution."

(4) Effective Date.—This section and the amendments made by this section shall apply to fiscal years 2002 through 2006.

Mr. VOINOVICH. Mr. President, one of the primary reasons I wanted to serve as a Senator was to have an opportunity to bring fiscal responsibility to our Nation and help reduce our national debt. As many of my colleagues know, for decades successive Congresses and Presidents spent money on items that, while important, they were unwilling to pay for or, in the alternative, do without. In the process, Washington, a staggering budget deficit, and mortgaged our future. Today our national debt stands at about $5.7 trillion. That costs about $200 billion a year in interest payments.

From the time I arrived in the Senate, I have worked to rein in spending and lower the national debt. Over the past 2½ years, I have cosponsored and sponsored a number of amendments designed to bring fiscal discipline to the Federal Government. In March of 1999, I offered an amendment to use whatever surplus was calculated in the fiscal year 2000 budget to pay down the debt. In March of 2000, I again offered my amendment to use the on-budget surplus calculated for fiscal year 2001 for debt reduction. In an effort to bring spending under control, Senator ALLARD and I offered an amendment in June of 2000 to direct $12 billion of fiscal year 2000 on-budget surplus toward debt reduction. The amendment was defeated by a 95-3 and committed Congress to designate the on-budget surpluses to reduce the national debt, keeping these funds from being used for additional Government spending. Our amendment provided that if and only if Congress would begin the serious task of paying down the debt.

Further, this past April, Senator FEINGOLD, Senator GERAGHTY, and I offered an amendment to the fiscal year 2002 budget designed to tighten enforcement of existing spending controls. Our amendment created an explicit point of order against directed scoring and abuses of emergency spending.

Even with all the amendments I proposed and supported limiting Federal spending under control, I have never lost sight of the fact that we need to enact a Social Security lockbox. Make no mistake, adopting a Social Security lockbox is not about Social Security benefits; it is not about Social Security beneficiaries; it will not know the difference if we pass or do not pass a Social Security lockbox. What we are doing today will not have an impact at all on the beneficiaries. The amendment I am offering today would take this Social Security surplus off limits from being used for any other purpose.

For decades, the Social Security surplus was used by Congress after Congress to offset Federal spending. For many of those years, Members of both the House and Senate worked to put the Social Security surplus off limits from being used for any Federal spending. We talked a lot about it. In 1999, after years of wrangling, a landmark budget agreement passed in 1995, the Federal Government finally achieved a balanced budget. With this good news, it became apparent that Congress and the President would not need to use the Social Security surplus for spending. This was made possible by our economic prosperity which guaranteed and generated a huge increase in tax revenues, which we know about, and in turn a massive on-budget surplus. Because the United States was running in the black for the first time in recent memory, Social Security surpluses were used to pay down the national debt instead of being used for spending. Indeed, since 1999, there has been a political consensus not to return to spending that surplus.

However, the economic prosperity this Nation enjoyed as recently as months ago is fading, although I hope this is only a temporary situation. Surplus projections are likely to be revised downward. The Congressional Budget Office is currently estimating for more spending has not abated.

For fiscal year 2001, Congress, with the encouragement of the Clinton administration, increased nondefense discretionary spending 14.3 percent. That is something people have not taken into consideration. Nondefense discretionary spending in the last budget was 14.3 percent above the year before and increased overall spending by 8 percent, which we should be doing away with. All of this was on top of large increases in the previous years’ budgets.

If we fund the education bill that the Senate recently passed, which increases spending by 62 percent or $14 billion, and if we fund the President’s request for an $8 billion increase in defense spending that the administration is talking about, we could end up spending a portion of the on-budget surplus of fiscal year 2003 and beyond. Part of the reason for this is the fact that the tax reduction was more front-end loaded than the President had originally planned.

Frankly, if the economy really falters, we could bump up against the Social Security trust fund next year. Normally, I would agree that if a Member of this Chamber agrees we should not spend that surplus and the public has grown to expect that Congress won’t return to spending it. This year’s budget resolution was designed in part to avoid spending that surplus.

At the moment, we are de facto lockboxing Social Security. Therefore, it makes perfect sense to take the next step and lockbox these funds permanently. It is the best possible action we can take today to bring our fiscal discipline to the 107th Congress.

On the one hand, it guarantees we don’t touch Social Security, and on the other it ensures we will continue to pay down debt, which fulfills the commitment we have all made and which will give us the interest savings. It is a two-for: We won’t spend it; second, it will allow us to continue to pay down the national debt substantially. That is part of what I refer to as the three-legged stool. That is why I supported the President’s budget in terms of my support for the budget resolution was: Hold spending down, reduce debt, and reduce taxes. But all three of them have to be present. We have to preserve that one stool of reducing the national debt.

If my colleagues think back to the 1980s, they will remember the dramatic increase in the national debt, primarily because of the use of the Social Security surplus. I was here. I was president of the National League of Cities. I came to this Congress before the Finance Committee and supported the Republican proposal to limit spending in 1985. What we saw happen during that period of time was that taxes were reduced and spending went up. Republicans wanted to spend on defense, the Democrats wanted to spend on social programs, and the way they paid for it was to use the Social Security surplus. I don’t want that to happen while I am a Member of the Senate. I don’t think any of my other colleagues want that to happen again.

The 1999 budget was the first time in over three decades that Congress did
not use Social Security to pay for Federal spending. Again, in 2000, Congress did not use Social Security spending, although I must say it was hand-to-hand combat to make sure it wasn’t used. There was direct scoring, there was emergency spending, and all kinds of other mechanisms, because CBO had said we were spending the Social Security surplus, and the only thing that saved us was we got back here in January and CBO came out with new projections and said the budget surplus was more than what we had originally anticipated it to be.

Although the economy is not as robust as it was a year ago, we must resist the temptation to fall off the wagon of fiscal responsibility and resist the urge to resume spending that Social Security trust fund. The amendment we are offering guarantees we will not fall off the wagon. It contains two enforcement mechanisms: A supermajority point of order written in statute and automatic across-the-board spending cuts. Our amendment creates a statutory point of order against any bill, amendment, or resolution that would spend the Social Security surplus plus any of the next 10 years. Waiving the point of order would require the votes of 60 Senators. In addition, if the Social Security surplus were spent, the Office of Management and Budget would impose automatic across-the-board cuts in discretionary and mandatory spending to reduce the amount of the surplus spent.

We are talking about mandatory spending; we are talking about the fact that it will exempt Social Security and those things that are contained in the Deficit Control Act of 1985. My understanding is that is about $33 billion that would be subject to sequester or reduction.

This amendment will only trigger the automatic reduction if spending of the surplus plus half of 1 percent of the total outlay expenditure. In other words, it is not going to be one of those things that will happen automatically. It has a provision that says, if it is shown you have spent over one-half of 1 percent of the Social Security surplus, then the trigger will go into effect.

That is because we are talking about a $2 trillion budget and I think there ought to be some kind of flexibility in the amendment. I think, frankly, it is something that is intellectually honest to do. The only exceptions to the lockbox would be a state of war as declared by Congress or a recession defined as two successive quarters of negative economic growth.

For the past 25 years I have fought to make sure we in the Senate hold ourselves accountable for the spending decisions that we make. Thus far, our spending choices, whether I have agreed with them or not, have involved on-budget dollars. But I believe we need to prepare to protect Social Security funds from being used for even more spending, should our budget surplus fade. That is what will happen. If we keep this spending up, and then the surplus isn’t there, there is going to be a great temptation for this body to invade the Social Security surplus.

Some of my colleagues in the Senate might argue we do not need a separate law establishing a Social Security lockbox since it already exists in the budget. Some of my colleagues might also swear that we would never return to the days when the Social Security trust fund was used as the Government’s private piggy bank. Invariably we are told to have faith that this institution called Congress will do the right thing when it comes to spending. I am a firm believer in Ronald Reagan’s philosophy: Trust but verify. In my view, a permanent statutory Social Security lockbox is the best way to verify that the Social Security surplus remains untouched by those who would spend it. It would also force Congress to fiscal discipline and to make the hard choices in spending with the funds that we have today at our disposal.

I urge my colleagues to join me in support of this amendment.

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

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. VOINOVICH. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Did the distinguished Senator from Ohio offer his amendment?

The PRESIDING OFFICER. Yes, he offered his amendment.

AMENDMENT NO. 86 TO AMENDMENT NO. 86

Mr. BYRD. Mr. President, on behalf of Senator CONRAD, I offer an amendment authored by Mr. CONRAD to be an amendment in the second degree to the amendment offered by Mr. VOINOVICH.

I ask unanimous consent that after the clerk states the title of this amendment, that it and the amendment in the first degree be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the amendment. The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD). The amendment numbered 866 to an amendment No. 86.

The amendment is as follows:

(Purpose: To establish an off-budget lockbox to strengthen Social Security and Medicare)

Strike all after the first word and insert the following:

TITLE — SOCIAL SECURITY AND MEDICARE OFF-BUDGET LOCKBOX ACT OF 2001

SEC. 01. SHORT TITLE

This title may be cited as the “Social Security and Medicare Off-Budget Lockbox Act of 2001”.

SEC. 02. STRENGTHENING SOCIAL SECURITY AND MEDICARE OFF-BUDGET LOCKBOX ACT OF 2001

(a) IN GENERAL.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 643) is amended by inserting at the end the following:

((b) STRENGTHENING SOCIAL SECURITY POINT OF ORDER.—It shall not be in order in the House of Representatives or in the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, conference report, or amendment to any such resolution or report that would violate or amend section 13301 of the Budget Enforcement Act of 1990.

(b) SUPER MAJORITY REQUIREMENT.—

(1) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting “312(g)(2),” after “312(d)(2).”

(2) WAIVER.—Section 906(d)(2) of the Congressional Budget Act of 1974 is amended by inserting “312(g)(2),” after “312(d)(2).”

(c) ENFORCEMENT IN EACH FISCAL YEAR.—The Congressional Budget Act of 1974 is amended in—

(1) section 301(a)(7) (2 U.S.C. 622(a)(7)), by striking “for the fiscal year” through the period and inserting “for each fiscal year covered by the resolution”; and

(2) section 311(a)(3) (2 U.S.C. 642(a)(3)), by striking beginning with “for the first fiscal year” through the period and inserting the following:

“for any of the fiscal years covered by the concurrent resolution.”

SEC. 03. MEDICARE TRUST FUND OFF-BUDGET.

(a) IN GENERAL.—

(1) EXCLUSION FROM ALL BUDGETS.—Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

“SEC. 316. (a) EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS.—“SEC. 316. (a) EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS.—“SEC. 316. (a) EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS.—“SEC. 316. (a) EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS.—

SEC. 316. (a) EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Hospital Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President;

(2) the congressional budget; or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) STRENGTHENING MEDICARE POINT OF ORDER.—It shall not be in order in the House of Representatives or in the Senate to consider any concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, or conference report that would violate or amend this section.”

(b) SUPER MAJORITY REQUIREMENT.—

(1) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting “313,” after “313.”

(2) WAIVER.—Section 906(d)(2) of the Congressional Budget Act of 1974 is amended by inserting “313,” after “313.”

(c) EXCLUSION OF MEDICARE TRUST FUND FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)) is amended by adding at the end the following:

“The concurrent resolution shall not include the revenues and outlay totals of the Federal Hospital Insurance Trust Fund in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.”

(d) BUDGET TOTALS.—Section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)) is amended by inserting after paragraph (7) the following:

“(8) For purposes of Senate enforcement under this title, revenues and outlays of the Federal Hospital Insurance Trust Fund for
each fiscal year covered by the budget resolu-

tion.’’.

(d) BUDGET RESOLUTIONS.—Section 303(1) of the Congressional Budget Act of 1974 (2 U.S.C. 642(a)) is amended—

(1) striking ‘‘SECURITY POINT OF OR-

—It shall’’ and inserting ‘‘SECUR-

ITY AND MEDICARE POINTS OF OR-

DER.—’’;

(2) inserting at the end the following:

‘‘(2) MEDICARE.—It shall not be in or

the House of Representatives or the Senate to con-

sider any concurrent resolution on the bud-

get (or amendment, motion, or confer-

ence report on the resolution) that would

cause a decrease in surpluses or an increase in de-

ficit in the Federal Hospital Insurance Trust Fund in any of the fiscal years covered by the concurrent resolution.’’.;

(e) MEDICARE FUND.—Section 311(a) of the Congressional Budget Act of 1974 (2 U.S.C. 642(a)) is amended by adding after paragraph (3), the following:

‘‘(4) ENFORCEMENT OF MEDICARE LEVELS

IN THE SENATE.—After a concurrent resolu-

tion on the budget is agreed to, it shall not be in or

the Senate to consider any bill, joint resolu-

tion, amendment, motion, or con-

ference report that would cause a decrease in sur-

pluses or an increase in deficits of the

Federal Hospital Insurance Trust Fund in any year relative to the levels set forth in the appro-

riation reports.’’;

(f) BASELINE TO EXCLUDE HOSPITAL IN-

SURANCE TRUST FUND.—Section 257(b)(3) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by striking ‘‘shall be included in all’’ and inserting ‘‘shall not be included in any’’.

(g) MEDICARE FUND EXEMPT FROM SUBSE-

QUENT LEGISLATION.—The Medicare Trust Fund Exempt From Subsequent Legislation, as authorized by Section 255(g)(13) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

‘‘Medicare as funded through the Federal Hospital Insurance Trust Fund.’’;

(h) BUDGETARY TREATMENT OF HOSPITAL IN-

SURANCE TRUST FUND.—Section 710(a) of the Social Security Act (42 U.S.C. 911(a)) is amended—

(1) by striking ‘‘and’’ the second place it appears and inserting a comma; and

(2) by striking after ‘‘Federal Disability Insurance Trust Fund’’ the following: ‘‘, Federal Hospital Insurance Trust Fund’’.

SEC. 04. PREVENTING ON-BUDGET DEFICITS.

(a) AMENDMENT TO PREVENT ON-

BUDGET DEFICITS.—Section 312 of the Con-

gressional Budget Act of 1974 (2 U.S.C. 643) is amended by adding at the end the following:

‘‘(b) POINTS OF ORDER TO PREVENT ON-

BUDGET DEFICITS—’’;

(1) CONCURRENT RESOLUTIONS ON THE BUD-

GET.—It shall not be in order in the House of Repre-

sentatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would cause or increase an on-

budget deficit for any fiscal year.’’.

(2) SUBSEQUENT LEGISLATION.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolu-

tion, amendment, motion, or conference report if:

(A) the enactment of that bill or resolu-

tion as reported;

(B) the adoption and enactment of that amendment; or

(C) the enactment of that bill or resolu-

tion in the form recommended in that confer-

ence report, would cause or increase an on-

budget deficit for any fiscal year.’’;

(b) SUPER MAJORITY REQUIREMENT—

(1) POINT OF ORDER.—Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting ‘‘(b),’’ after ‘‘(2)’’.
grant program under the Housing and Community Development Act of 1974. Amounts made available for programs administered by the Department of Housing and Urban Development for fiscal year 2003 shall be reduced on a pro rata basis by $10,000,000. The Federal Emergency Management Agency shall provide technical assistance to Indians with respect to the development of independent emergency services on the Turtle Mountain Indian Reservation.

AMENDMENTS NO. 888 AND NO. 889, IN BLOC

Mr. STEVENS. Mr. President, on behalf of Senator MCCAIN, I would like to send two amendments to the desk and ask that they be qualified under the time agreement.

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) for Mr. MCCAIN, proposes amendments numbered 888 and 889, en bloc.

The amendments are as follows:

AMENDMENT NO. 888

(Purpose: To increase amounts appropriated to the Department of Defense for fiscal year 2003 in other provisions of this Act or in the Department of Defense Appropriations Act, 2001 (Public Law 106-259), $2,736,100 is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Department of Defense for the fiscal year ending September 30, 2003, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

"Military Personnel, Army", $30,000,000;
"Military Personnel, Navy", $10,000,000;
"Military Personnel, Air Force", $332,500,000;
"Reserve Personnel, Army", $30,000,000;
"Operation and Maintenance, Army", $916,400,000;
"Operation and Maintenance, Navy", $314,500,000;
"Operation and Maintenance, Marine Corps", $290,700,000;
"Operation and Maintenance, Air Force", $59,600,000;
"Operation and Maintenance, Defense Wide", $9,000,000;
"Operation and Maintenance, Army Reserve", $290,000,000;
"Operation and Maintenance, Army National Guard", $196,000,000;
"Aircrew Procurement, Army", $50,000,000, to remain available for obligation until September 30, 2003;
"Procurement of Weapons and Tracked Combat Vehicles, Army", $10,000,000, to remain available for obligation until September 30, 2003;
"Procurement of Ammunition, Army", $14,000,000, to remain available for obligation until September 30, 2003;
"Other Procurement, Army", $40,000,000, to remain available for obligation until September 30, 2003;
"Aircrew Procurement, Navy", $65,000,000, to remain available for obligation until September 30, 2003;
" Aircraft Procurement, Air Force", $33,300,000, to remain available for obligation until September 30, 2003;
"Research, Development, Test and Evaluation, Air Force", $3,000,000, to remain available for obligation until September 30, 2003;

"USS Cole", $49,000,000.

Provided, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided, further, That the entire amount shall be available only to the extent that an official budget request for that specific dollar amount that includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

AMENDMENT NO. 889

(Purpose: To provide additional funds for military personnel, working-capital funds, mission-critical maintenance, force protection, and other purposes by increasing amounts appropriated to the Department of Defense, and to offset the increases by reducing and rescinding certain appropriations)

After section 2002, insert the following:

SEC. 3003. (a) In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 by other provisions of this Act or the Department of Defense Appropriations Act, 2001 (Public Law 106-259), funds are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

(1) Under the heading "MILITARY PERSONNEL, NAVY", $318,000,000, of which $1,000,000 shall be available for the supplemental subsistence allowance under section 402q of title 37, United States Code.
(2) Under the heading "MILITARY PERSONNEL, MARINE CORPS", $21,000,000.
(3) Under the heading "RESERVE PERSONNEL, NAVY", $1,800,000, which shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.
(4) Under the heading "OPERATION AND MAINTENANCE, NAVY", $103,000,000.
(5) Under the heading "OPERATION AND MAINTENANCE, NAVY", $72,000,000, of which $36,000,000 shall be available for enhancement of force protection for United States forces in the Persian Gulf region and elsewhere worldwide.
(6) Under the heading "OPERATION AND MAINTENANCE, MARINE CORPS", $6,000,000.
(7) Under the heading "OPERATION AND MAINTENANCE, AIR FORCE", $397,000,000.
(8) Under the heading "OPERATION AND MAINTENANCE, ARMY RESERVE", $21,000,000.

(b) Of the funds appropriated to the Department of Transportation for the Maritime Administration under the heading "MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT" in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-553), $20,000,000.
(2) Of the funds appropriated to the Department of Labor for the Employment and Training Administration under the heading "TRAINING AND EMPLOYMENT SERVICES" in the Departments of Labor, Health and Human Services, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-554), the following amounts:
(1) From the amounts for Dislocated Worker Employment and Training Activities, $41,500,000.
(2) From the amounts Adult Employment and Training Activities, $100,000,000.
(3) Of the unobligated balance of funds previously appropriated to the Department of Transportation for the Federal Transit Administration that remain available for obligation in fiscal year 2001, the following amounts:
(1) From the amounts for Transit Planning and Research, $34,000,000.
(2) From the amounts for Job Access and Reverse Commute Grants, $76,000,000.

AMENDMENT NO. 879

Mr. STEVENS. Mr. President, I send an amendment to the Senate for the Senator from Arkansas, Mr. HUTCHISON, and ask that it be qualified.

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

The pending amendment is laid aside. The clerk will report the amendment. The assistant legislative clerk read as follows:

"Revised."
The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 870.

The amendment is as follows:

(Purpose: To provide additional amounts to repair damage caused by ice storms in the States of Kansas and Oklahoma)

On page 13, between lines 21 and 24, insert the following:

FOREST SERVICE
STATE AND PRIVATE FORESTRY

For an additional amount for “State and Private Forestry” to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended. Provided, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

NATIONAL FOREST SYSTEM

For an additional amount for the “National Forest System” to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $1,000,000, to remain available until expended. Provided, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for “Capital Improvement and Maintenance” to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $4,000,000, to remain available until expended. Provided, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

The amendment no. 871.

Mr. STEVENS. Mr. President, I send an amendment to the desk for the Senator from Idaho, Mr. CRAIG, and ask that it be qualified.

The PRESIDING OFFICER. No objection, it is so ordered.

The amendment is laid aside. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CRAIG), for Mr. CRAIG, proposes an amendment numbered 871.

The amendment is as follows:

(Purpose: Regarding the proportionality of the level of non-military exports purchased by Israel to the amount of United States cash transfers (assistance for Israel))

On page 29, between lines 2 and 3, insert the following:

SEC. 2902. In exercising the authority to provide cash transfer assistance for Israel for the fiscal year ending September 30, 2001, the President shall—

(1) ensure that the level of such assistance does not cause an adverse impact on the total level of non-military exports from the United States to Israel; and

(2) enter into a side letter agreement with Israel providing for the purchase of grain in the amount of such assistance and in accordance with terms at least as favorable as the side letter agreement in effect for the fiscal year ending September 30, 2000.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the Chair, and I thank my distinguished colleague, the manager of the bill.

I have two matters which I wish to address today.

First, I say to my colleague from North Dakota that we are very concerned about the situation he described. And, with the chairman of the VA-HUD Appropriations Subcommittee, we will look into this serious problem he has outlined. We thank him and commend him for bringing it to the attention of this body.

I have two measures.

First, I don’t believe there is a Member of this body who has waterways in his or her State who doesn’t understand the importance of the work done by the U.S. Army Corps of Engineers. Within the beltway, however, items such as flood control and river transportation are viewed as some sort of luxury we can do without. We can’t do without them. I have been there. I have seen the devastation and the heartbreak. I have seen the families in great crisis. I have seen the farms and the homes destroyed. Unless you have been there, you cannot really appreciate it.

Clearly, the view in some eastern editorial boardrooms is rather clouded, and elite drawing rooms can’t see that there are powerful and work along and depend upon the river. These are the people about whom we should be concerned.

I invite those who can tell us how to manage the rivers to come out and take a look at our rivers sometime. They might be very surprised at what they find.

In the State of Missouri, we have nearly 1,000 miles of land bordering the Missouri and Mississippi Rivers. Water transportation is low cost, safe, fuel efficient, and provides an insurance policy against runaway shipping costs charged by railroads that otherwise would face no competition. The environmental community assumes that monopolists can raise prices. They do. But on the environmental side, to put the benefits of water transportation in perspective, one medium-sized 15-barge tow carries the same amount of grain as 870 tractor trailer trucks. Clearly, this comparison demonstrates the fuel efficiency and clean air benefits to the environment. It also reduces congestion, reduces highway wear and tear, improves safety, and costs less.

In Missouri, one-third of our agricultural production comes from the 100-year-flood plain. The Washington Post, that still believes food comes from the grocery store and not the farm, believes that this land should not be in production and flood protection should be a low priority.

Those who criticize the projects administered by the Corps typically do it from a safe distance. One of the biggest critics of the Corps in the Midwest sits safely behind a 500-year urban flood wall.

Policymakers in Washington stress exports and jobs but many fail to make the connection between exports and the transportation necessary to export. Unless we have purged the laws of physics and unless there are strange new business practices which don’t require buyers to take delivery of goods, then transportation ultimately remains necessary.

Policymakers in Washington stress the need for additional power production that is good for the environment but propose inadequate budgets and policies for hydropower generation.

In the last Administration, policy and budgets to undermine the Corps was almost an anathema. Unfortu- nately, the most recent budget proposed for fiscal year 2002 shows no recognition of how important the mission of the Corps is. I have a flood control project in Kansas City that will protect industries employing 12,000 people. The budget request for 2002 asks for enough money to keep the contractors busy for a fraction of the year. So not only is the project delayed, and not only does delay subject the citizens to prolonged flood risk unnecessarily, the delay increases the cost of the project which I would expect the number-crunchers at OMB to find compelling if nothing else gets their attention.

Regrettably, the supplemental request does not include one red cent for operations and maintenance for the Corps of Engineers notwithstanding flood control, navigation, hydropower generation and environmental needs resulting from Midwestern flooding on the upper Mississippi, a Pacific earthquake which occurred in February, Tropical Storm Allison which occurred weeks ago as well as remaining problems associated with Hurricane Floyd and ice storms in the South.

Specifically, there are needs estimated to be: $50 million in response to the Worst flooding in the Southwest impacted by ice storms; $37 million for the Atlantic Seaboard in response to Hurricane Floyd and other weather events; $59 million for the Pacific Northwest to repair earthquake damage, stabilize hydropower facilities and protect major environmental deficien- cies; and $30 million in response to the tropical storm which occurred early this month that affected Galveston and the New Orleans District.

My office has made inquiries at several districts that serve Missouri and have learned that they expect to be out of O&M funds to dredge the Mississippi River in a matter of weeks, which will risk the execution of water commerce on the nation’s most important waterway.

When weather events occur, sediments build up, damage is done to levees and engineering structures such as wing dikes making repairs necessary and resources to dredge our ports and rivers necessary.

The House recognized this omission and included an additional $130 million for O&M for the Corps. Their markup occurred before there was any idea of what Allison had left behind.
I do not want to have to wait for economic decline, either regional or national, to try to make the case that we cannot continue to take our factors of production for granted. The growing estrangement of some decisionmakers and the media from the history and reality of the world and the nature of resource production in this country must be corrected. It will either be corrected ahead of a crisis or in response to a crisis. We have a strong economy for a reason and if we do not take care of our infrastructure we will go into economic decline for a reason.

While we are undermining our infrastructure, competing nations are updating theirs. How many states have to have their lights turned out before we consider how are factories are powered, how our trucks are fueled and how our homes are heated? I regret that the need for efficient transportation, energy, and protection of people and property is a case that must be made but when it is not made when now for a fraction of what neglect, inaction and apathy will cost us later.

I know there is a bipartisan recognition that our water infrastructure is growing old and not serving the American people adequately. While there has always been bipartisan support for the mission of the Corps, I fear that the budgets do not match the need.

Over the last two years Corps projects have experienced a series of weather-related events that have left much of our water resources infrastructure in an alarming state of disrepair. In the most severe cases, temporary repairs were made to correct immediate hazards to public health and safety, while other work still awaits adequate funding. Harbor channels have lost sufficient depth and width for safe navigation, rivers are choked with debris, embankments are dangerously eroded, power outages are more frequent, and environmental preservation measures have changed. Unless the Corps receives supplemental funding, many navigation channels will not be able to accommodate normal commercial flow and flood control projects will be in serious jeopardy of failure. Recent dams and deterioration of hydropower facilities coupled with the national energy crisis have underscored the urgent need to undertake necessary repairs to hydropower projects in the Pacific Northwest.

While I will withhold offering an amendment at this time, I will do what I can do in conference to urge conferees to accept the House correction of the omission.

I ask unanimous consent that the pending amendment be set aside.

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

Mr. BOND. Mr. President, my second item deals with the defense budget.

While the administration’s request for an appropriation bill for the Department of Defense includes what the administration believes is the minimum needed to get by for the remainder of this fiscal year (01), I respectfully disagree with their definition of “minimum.”

Although we are hearing promises of an amended ‘02 budget with a huge defense plus-up, it is clear that the Defense Department appropriation bill for 2002, and many of the 13 appropriations bills we will consider this year. That unfortunate timing may threaten the availability of all the extra funds many believe the Pentagon desperately needs. Simply put, there is no guarantee. The Pentagon needs will be there when the Senate takes up the amended Defense appropriation bill for 2002.

We must stop kicking the can down the road with promises to our forces— their need is urgent, they need help now. The problem will only continue to worsen, we need to act now.

Just last week, the Navy’s top officer, Admiral Vern Clark, said he is trying to rid the United States Navy of the “best inefficient” — their acceptance of sustained resource shortages as a normal condition.

Sadly, Mr. President, this “psychology of deficiency” has not only infected the culture of our Armed Forces, but I am afraid it has become the culture.

The vast majority of the enlisted troops and officers on active duty today know only a culture of getting by on the minimum funding possible. They talk about “doing more with less,” but the reality has been for almost a decade now, one of “doing too much with too little.”

That is simply unacceptable. Every day, soldiers, sailors, airmen and marines risk their very lives for the values that have made this country the more powerful beacon of freedom the world has every known.

And in exchange for their lives, what do we do? We give them barely enough to perform their mission safely. The bare minimum and no more. That is how we repay our troops? No wonder our Armed Forces have suffered from a persistent morale problem that has manifested itself in a chronic inability to hold onto large numbers of our most talented troops.

The “bare minimum” of funding is no way for our society to uphold our end of the social contract with our troops. That is not how we keep faith with those who defend our Nation’s interests at their own personal risk.

How badly have we fallen short on our end of the social contract?

At the current level of funding, it will take 160 years to replace the Navy’s shore infrastructure. The backlog of maintenance and repair exceeds $5.5 billion.

Recently the Marine Corps Commandant spoke about the terrible funding choices we force him to make. In order to keep marines ready for combat in case war breaks out in the near-term, the Commandant has to steal money from accounts dedicated to modernizing the Marine Corps for tomorrow’s wars. If this persists, the Marine Corps may find itself on a battle-field in the future without the proper, modern equipment to help guarantee a quick victory with few U.S. casualties. Even with the supplemental, the Army does not have the $145.1 million it needs to run its specialty training and schools. That means thousands of soldiers may not qualify in their combat specialties, which directly affects the combat readiness of Army units.

When we tell our soldiers “sorry, we don’t have enough to pay you properly to do your job,” what do you think the effect is on morale? The impact is devastating. That is what each of our services has had so much difficulty holding onto: Retaining its most skilled workers.

Our U.S. Air Force is currently operating and maintaining the oldest fleet in our history. On average, our aircraft are about 22 years old and getting older. An aging fleet costs more, both in money and dollars, to operate and maintain.

Last year, while we flew only 97 percent of our programmed flying hours, doing so cost us 103 percent of our budget. Over the past 5 years, our costs per flying hour have risen almost 50 percent. That is a terrible cycle: Older planes cost more to maintain, which robs money from accounts to buy new planes, and so on. It is a death spiral for our Air Force.

If the sad history has shown us the folly of funding our troops as if peace will persist forever, as if war will never come. I thought this country learned that lesson in the opening days of the Korean war when Americans were caught unprepared, under-equipped, and undertrained, and many paid with their lives.

I know the President of the United States knows this. I know Secretary of Defense Rumsfeld knows this. These are the men who know it is time to get the U.S. military on a more solid footing. I have worked closely with them in the past. I will continue to work with them. They will find me to be their most loyal supporter in this effort. But we can no longer afford to wait. We must act now.

That is why I am rising today to offer an amendment to add $1.45 billion to the fiscal year 2001 supplemental appropriations for the Defense Department. The amendment seeks to add the funds the Defense Department that are needed, and can be spent, in what remains of the fourth quarter of the current fiscal year.

The amendment includes funds that will be directed exclusively to the operations and maintenance accounts of each of the four services. This is money the Pentagon needs right now to ensure that critical repairs and training are not delayed further.

There are emergency designations in this measure. All the money appropriated must be obligated by September 30 of this year. And the money shall be available only to the extent
that an official budget request for that specific dollar amount includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and is transmitted by the President to Congress. We must begin to tell our troops that indeed help is on the way, that this is the time to send the help.

**AMENDMENT NO. 872**

Mr. President, I send the amendment to the desk and ask unanimous consent that it be included in the qualified list of amendments.

The **PRESIDING OFFICER.** Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. Bond] proposes an amendment numbered 872.

Mr. BOND. 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 amounts appropriated for the Department of Defense)

At the end of title III, add the following:

(1) In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 by other provisions of this Act or the Department of Defense Appropriations Act, 2001 (Public Law 106-299), funds are hereby appropriated to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

(a) Under the heading “Military Personnel, Marine Corps”, $21,000,000.

(b) Under the heading “Reserve Personnel, Army”, $30,000,000.

(c) Under the heading “Operation and Maintenance, Army”, $368,000,000.

(d) Under the heading “Operation and Maintenance, Navy”, $577,250,000.

(e) Under the heading “Operation and Maintenance, Marine Corps”, $6,000,000.

(f) Under the heading “Operation and Maintenance, Air Force”, $100,200,000.

(g) Under the heading “Operation and Maintenance, Reserve”, $30,000,000.

(h) Under the heading “Operation and Maintenance, Navy Reserve”, $19,100,000.

(i) Under the heading “Operation and Maintenance, Army National Guard”, $39,400,000.

(b) The total amount appropriated under subsection (a) shall be available only to the extent that an official budget request for that specific dollar amount includes the designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, and is transmitted by the President to Congress.

(c) The total amount appropriated under subsection (a) is hereby designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(d) All of the funds appropriated and available under this section shall be obligated not later than September 30, 2001.

Mr. BOND. I yield the floor.

The **PRESIDING OFFICER.** The Senator from Nevada.

**AMENDMENT NO. 873**

Mr. REID. Mr. President, I send an amendment to the desk for Senator Hollings under my name under the authorized list.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. Hollings] proposes an amendment numbered 873.

The amendment is as follows:

(Purpose: Ensuring funding for defense and education and the supplemental appropriation by repealing tax cuts for 2001)

(a) **REPEAL.**

(1) **IN GENERAL.**—Section 101 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is repealed.

(2) **APPLICATION OF CODE.**—The Internal Revenue Code of 1986 shall be applied and administered as if such section 101 (and the amendments made by such section) had never been enacted.

(b) **CONFORMING AMENDMENTS.**—

(A) **IN GENERAL.**—Section 1 of the Internal Revenue Code of 1986 (relating to tax imposed) is amended by adding at the end the following new subsection:—

(1) **RATES REDUCTIONS AFTER 2001.**—

(ii) the 15 percent rate of tax shall apply only to taxable income over the initial bracket amount for any taxable years beginning after December 31, 2001—

(iii) the rate of tax under subsections (a), (b), (c), and (d) on taxable income not over the initial bracket amount shall be 10 percent, and

(iv) the 15 percent rate of tax shall apply only to taxable income over the initial bracket amount but not over the maximum dollar amount for the 15-percent rate bracket.

(B) **INITIAL BRACKET AMOUNT.**—For purposes of this paragraph, the initial bracket amount is—

(i) $14,000 ($12,000 in the case of taxable years beginning before January 1, 2006) in the case of subsection (a),

(ii) $10,000 in the case of subsection (b), and

(iii) 1⁄3 the amount applicable under clause (i) (after adjustment, if any, under subparagraph (C)) in the case of subsections (c) and (d).

(C) **INFLATION ADJUSTMENT.**—In prescribing the tables under subsection (f) which apply with respect to taxable years beginning in calendar years after 2001—

(i) the Secretary shall make no adjustment to the initial bracket amount for any taxable year beginning before January 1, 2009,

(ii) the cost-of-living adjustment used in making adjustments to the initial bracket amount for any taxable year beginning after December 31, 2001, shall be determined under subsection (f)(3) by substituting “2002” for “1992” in subparagraph (B) thereof, and

(iii) such adjustment shall not apply to the amount referred to in subparagraph (B)(iii).

If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

(2) **REDUCTIONS IN RATES AFTER DECEMBER 31, 2001.**—In the case of taxable years beginning in a calendar year after 2001, the corresponding percentage specified for such calendar year in the following table shall be substituted for the otherwise applicable tax rate in the tables under subsections (a), (b), (c), (d), and (e).

<table>
<thead>
<tr>
<th>Year</th>
<th>24%</th>
<th>25%</th>
<th>26%</th>
<th>27%</th>
<th>28%</th>
</tr>
</thead>
<tbody>
<tr>
<td>2002 and 2003</td>
<td>27.0%</td>
<td>30.0%</td>
<td>35.0%</td>
<td>38.6%</td>
<td></td>
</tr>
<tr>
<td>2004 and 2005</td>
<td>26.0%</td>
<td>29.0%</td>
<td>34.0%</td>
<td>37.6%</td>
<td></td>
</tr>
<tr>
<td>2006 and thereafter</td>
<td>25.0%</td>
<td>28.0%</td>
<td>33.0%</td>
<td>35.0%</td>
<td></td>
</tr>
</tbody>
</table>

(3) **ADJUSTMENT OF TABLES.**—The Secretary shall adjust the tables prescribed under subsection (f) to carry out this subsection.

(B) **CONFORMING AMENDMENTS.**—

(i) Subparagraph (B) of section 1(g)(7) of such Code is amended by striking “15 percent” in clause (ii) and inserting “10 percent.”

(ii) Section 1(b) of such Code is amended—

(I) by striking “28 percent” both places it appears in paragraphs (1)(A)(i)(I) and (1)(B)(i) and inserting “25 percent,” and

(II) by striking paragraph (13).

(iii) Section III of such Code is amended by striking “equal to” and all that follows and inserting “equal to the product of the highest rate of tax under section 1(c) and the accumulated taxable income.”

(iv) Section 541 of such Code is amended by striking “equal to” and all that follows and inserting “equal to the product of the highest rate of tax under section 1(c) and the undistributed personal holding company income.”

(v) Section 3402(p)(1)(B) of such Code is amended by striking “7, 15, 28, or 31 percent” and inserting “7 percent, any percentage applicable to any of the 3 lowest income brackets in the table under section 1(c),”.

(vi) Section 3402(p)(2) of such Code is amended by striking “15 percent” and inserting “10 percent”.

(vii) Section 3402(q)(1) of such Code is amended by striking “equal to 28 percent” and inserting “equal to the product of the third lowest rate of tax applicable under section 1(c) and such payment”.

(viii) Section 3402(k)(5) of such Code is amended by inserting “equal to” and inserting “the fourth lowest rate of tax applicable under section 1(c)”.

(ix) Section 3406(a)(1) of such Code is amended by striking “equal to” and inserting “equal to the product of the fourth lowest rate of tax applicable under section 1(c) and such payment.”

(x) Section 13273 of the Revenue Reconciliation Act of 1993 is amended by striking “28 percent” and inserting “the third lowest rate of tax applicable under section 1(c) of the Internal Revenue Code of 1986”.

(C) **EFFECTIVE DATES.**—

(I) In general.—Except as provided in clause (ii), the amendments made by this paragraph shall apply to taxable years beginning after December 31, 2001.

(II) AMENDMENTS TO WITHHOLDING PROVISIONS.—The amendments made by clauses (v), (vi), (vii), (viii), (ix), and (x) of subparagraph (B) shall apply to amounts paid after December 31, 2001.

(b) **RESERVE FUND FOR DEFENSE AND EDUCATION.**—Subtitle B of title II of H. Con. Res. 83 (107th Congress) is amended by inserting at the end the following:

“SEC. 219. STRATEGIC RESERVE FUND FOR DEFENSE AND EDUCATION.

If legislation is reported by the Committee on Appropriations of the House of Representatives, or an amendment thereto is
Mr. REID. Mr. President, I ask unanimous consent that the amendment be set aside.

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

AMENDMENT NO. 874

Mr. REID. Mr. President, I send an amendment to the desk for Senator WELSTON under the authorized list.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. WELSTON, proposes an amendment numbered 874.

The amendment is as follows:

(Purpose: To increase funding for the Low-Income Home Energy Assistance Program, with an offset)

On page 11, between lines 8 and 9, insert the following:

 SEC. 1207. (a)(1) Effective July 31, 2001, of the funds provided to the Secretary of Defense, for fiscal year 2001 administrative expenses, under the Department of Defense Appropriations Act, 2001, the Military Construction Appropriations Act, 2001, and the Energy and Water Development Appropriations Act, 2001, and remaining in Federal appropriations accounts, an amount equal to $350,000,000 is rescinded.

(b) Subsection (a)(1) shall be rescinded from such Federal appropriations accounts as the Secretary of Defense shall specify before July 31, 2001. In determining the amounts to specify, the Secretary of Defense shall take into consideration the need to promote efficiency, cost-effectiveness, and productivity within the Department of Defense, as well as to maintain readiness and troop quality of life.

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RES IPSA LOQUITUR

Mr. HELMS. Mr. President, the July edition of the American Legion magazine published a remarkable statement of obvious truth by a much maligned American who deserves far better than the petty sniping he endures at the hands of cunning politicians and the media, neither of whom would acknowledge the truth if they fell over it in the middle of the street.

Mr. Clarence Thomas, but I do ask unambiguously consent the article by him be printed in the RECORD.

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

[From the American Legion Magazine, July 2001]

[From the American Legion Magazine, July 2001]

COURAGE AND CIVILITY

THOSE WHO CENSOR THEMSELVES PUT FEAR AHEAD OF FREEDOM

My beliefs about personal fortitude and the importance of defending timeless principles of justice grew out of the wonderful years I spent with my grandparents, the years I have spent in Washington, and my strong interest in world history—especially the history of countries in which the rule of law was surrendered to the rule of fear, such as during the rise of Nazism in what was then one of the most educated and cultured countries in Europe.

I have now been in Washington, D.C., for more than two decades. When I first arrived here in 1979, I thought there would be great debates about principles and policies in this city.

I expected citizens to feel passionately about what was happening in our country, to candidly and passionately debate the policies that had been implemented and suggest new ones.

I was disabused of this heretical notion in December 1980, when unconvincingly candid with a young Washington Post reporter. He fairly and thoroughly displayed my naive openness in his op-ed about our discussion. I thought what had been legitimate objections to a number of sacred policies, such as affirmative action, welfare, school busing—policies felt to be well serving their purported beneficiaries. In my innocence, I was shocked at the public reaction. I had never been called such names in my entire life.

Why were these policies beyond question? What or who had placed them off limits? Would it not be useful for those who felt strongly about these matters, and who wanted to solve the same problems, to have a point of view and to be heard? Sadly, in most forums of public dialogue in this country, the answer is no.

It became clear in rather short order that on very difficult issues, such as race, there was no real debate or honest discussion. Those who raised questions that suggested doubt about popular policies were subjected to intimidation. Debate was not permitted.

Orthodoxy was enforced. Today, no one honestly claim surprise at the venomous attacks against those who take positions that are contrary to the conventional wisdoms of other those who claim to shape opinions. Such attacks have been standard fare for some time.

If you trim your sails, you appease those who lack the honesty and decency to disagree on the merits but prefer to engage in personal attacks. A good argument diluted so its impact on our lives. But how are we to do that? To avoid criticism, say nothing, do nothing. This insight applies with equal force to the trivial.

What makes it worthwhile? What makes it worthwhile is something greater than all of us. There are those things that are so important that we are willing to risk our comforts, our lives, our very lives: Duty, honor, country! There was a time when all was to be set aside for these. The plow was left idle, the hearth without fire, the homestead abandoned.

To enter public life is to step outside our personal sphere of citizenry, to face the broader, national sphere of citizenship. What makes it worthwhile is to devote ourselves to the common good.

To assert that we must participate in the affairs of our country if we think they are important and have an impact on our lives. But how are we to do that? In a manner that is not consistent with our comfort or discomfort—if not our very lives: Duty, honor, country! There was a time when all was to be set aside for these. The plow was left idle, the hearth without fire, the homestead abandoned.

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nonjudgmental—i.e., we censor ourselves. This is not civility. It is cowardice, or well-intentioned self-deception at best.

The little-known story of Dimitar Peshev shows how the new policy and the explosive effect of telling the truth and the dangers inherent in allowing the rule of law and the truth to succumb to political movements.

Peshev was the vice president of the Bulgarian Parliament during World War II. He was a man like many—simple and straightforward, not a great intellectual, not a military hero—just a civil servant doing his job as best he could, raising his family, struggling through a terrible moment in European history.

Bulgaria was pretty lucky because it managed to stay out of the fighting, even though the Nazi invasion of Yugoslavia, the neighbor to the North of Bulgaria, was unstoppable. When the Axis powers reached the Dalmatian coast, Bulgaria moved toward the Holocaust in small steps.

Peshev was one of many Bulgarian officials who knew what was going on but who were em"stioned or dismissed by their superiors. The leaders of the country, despite their long history as hosts of not afraid.

According to the law, such actions were illegal. So Peshev forced his way into the office of the interior minister, demanding to know the truth. The minister repeated the official line, but Peshev didn't believe him. He demanded that the minister place a telephone call to the local authorities and remind them of their legal obligations. This brave act saved the lives of the Bulgarian Jews. Peshev then circulated a letter to members of Parliament, condemning the violation of the law and demanding that the government ensure that no such thing take place.

According to his biographer, Peshev's words moved all those who heard them to their feet. He had broken through the wall of official secrecy and forced his colleagues to face the truth.

There is no monument to this brave man. Quite the contrary, the ministers were embarrassed and made him pay the price of their wickedness. He was removed from the position of vice president, publicly chastised for breaking ranks and politically isolated. But he had won nonetheless: The king himself called him to his chambers and expressed his deepest regret.

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brain. In contrast to the situation with Parkinson’s disease, in which administra- tion of L-dopa seemed to work by increasing dopamine in the brain, the antipsychotic drugs such as thorazine, which are used to treat schizophrenia, seemed to work by blocking the function of dopamine in the brain. To this very day, medications that block the effects of dopamine remain the mainstay of treatment for schizophrenia. Dr. Carlsson’s work was instrumental in establishing the biological foundation of mental illness, which has led to our ability to target treatment of such disorders with medications based on their specific biochemical cause.

Dr. Greengard carried this line of work one step further, examining exac- tly how such neurotransmitters work as they transfer nerve impulses from one nerve cell to another through the connecting region called the syna- pse. He described in detail the cascade of chemical reactions that occurs as the neurotransmitter chemicals stimulate the next nerve cell in the nerve pathway, which results in conversion of the nerve impulse back into an elec- trical signal. Particularly important was the discovery of the different speeds at which these nerve signals are transmitted across the synapse. This framework enabled him to establish, on a molecular and biochemical level, the mechanism of action of various drugs that act on the central nervous system.

Finally, Dr. Kandel expanded the context of this research area by show- ing how such complex processes as memory and learning are directly re- lated to the basic biochemical founda- tions outlined by Drs. Greengard, Carlson, and Axelrod. In detailed studies in animals, Dr. Kandel showed that the process of memory was associated with specific changes in the shape and function of the synapse region that connects pairs of nerve cells. This re- search revealed that these connections between nerve cells, rather than being just passive junctions, are actually vi- tally important in the complicated processes of the nervous system.

The brain could be said to be the ultimate human frontier. As scientists pieced together the function of all the other organs in the body over the last few centuries, the brain remained an enigma. The work of Drs. Axelrod, Carlson, Greengard, and Kandel starts to close the mystery of the myriad ways the brain controls us and surrounds the brain, and this research has already led to practical, clinical advances to help millions of people with neurological and mental disorders such as Parkinson’s disease and schizo- phrenia. This basic understanding of how the brain works is clearly neces- sary for understanding of the numer- ous brain disorders that affect many more millions of people worldwide, some of which are just starting to be elucidated. Moreover, these pioneering studies open the door to the development of targeted medications to treat such illnesses. I am particularly excited about the possibility that this research will unlock the key to the medical treatment of substance abuse disorders, whose social impact in our country is enormous. On behalf of the many people who stand to live longer and more fulfilling lives as a result of their discoveries, I extend my deepest thank you to these esteemed Nobel laureates.

LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH of Oregon. Mr. President, I rise today to speak about hate crimes legislation I introduced with Senator KENNEDY in March of this year. The Local law Enforcement Act of 2001 would establish a comprehensive federal response to hate crimes legislation sending a sig- nal that violence of any kind is unac- ceptable in our society. I would like to describe a terrible crime that occurred June 2, 1999 in Greenfield, MA. Jonathan Shapiro, 18, and Matthew Messel, 16, used a pocketknife to cut an anti-gay slur into the back of a high school classmate.

Government’s first duty is to defend its citizens, to defend them against the harms that come out hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can be- come substance. I believe that by pass- ing this legislation, we can change hearts and minds as well.

UNITED NATIONS CONFERENCE ON THE ILLICIT TRADE IN SMALL ARMS AND LIGHT WEAPONS IN ALL ITS ASPECTS

Mrs. FEINSTEIN. Mr. President, today in New York the United Nations convened the conference on the Illicit Trade in Small Arms and Light Weap- ons in All Its Aspects, the first effort by the U.N. to address the preasing issue of small arms trafficking. The mass proliferation of small arms—shoulder-mounted missiles, assa ult weapons, grenade launchers, high-powered sniper rifles and other tools of death—is fueling civil wars, terrorism and the international drug trade throughout the world. The grimmest figures come from de- veloping countries where light, cheap and easy to use small arms and light weapons, such as AK-47s and similar military assault rifles, have become the weapons of choice of no-traf- fickers, terrorists and insurgents. The problem is staggering: An esti- mated 500 million illicit small arms and light weapons are in circulation around the globe, and in the past decade four million people have been killed by them in civil war and bloody fighting.

Nine out of 10 of these deaths are at- tributed to small arms and light weap- ons. According to the International Committee of the Red Cross, more than 50 percent of those killed are believed to be civilians.

Starting today, the United Nations will host a conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. At this con- ference, the U.N., for the first time, will seek to devise international stand- ards and procedures for curtailing small arms trafficking. It is an issue of extreme importance to the United States not only because of the vio- lence and devastation itself, but be- cause of the threat these weapons pose to our political, economic and security interests.

The volume of weaponry has fueled cycles of violence and been a major fac- tor in the devastation in re- cent conflicts in Africa, the Balkans, and South Asia, among other places. These conflicts undermine regional stability and endanger the spread of dem- ocracy and free-markets around the world. Here are a few examples.

In Mexico a lethal flow runs south from the United States has fed that na- tion’s drug war. Hundreds of thousands of weapons over the last decade have flooded into Mexico from the United States. Authorities recently traced a sale of 80 Chinese assault weapons from a San Diego gunshop to a Tijuana weapons dealer for $27,000. Many of these ended up in the hands of the Arellano Felix drug cartel and are be- lieved responsible for at least 21 deaths, including two infants, six chil- dren and a pregnant 17-year-old girl shot and killed during a mass murder at Rancho el Rodeo in September 1998.

In Albania more than 650,000 weapons and 20,000 tons of explosives dis- appeared from government depots in the three years leading up to the out- break of violence in the Balkans, ac- cording to the U.N. The continued pres- ence of the weapons poses a very real threat to NATO and U.S. peacekeepers in the region.

And in Colombia, the continued instability is in part due to the tor- rential flow of rifles and pistols to rebel groups and drug traffickers and more vulnerable groups have used the imported weapons to murder judges, journalists, police officers, as well as innocent passers-by.

The increased access by terrorists, guerrilla groups, criminals, and others to small arms and light weapons puts in jeopardy U.S. law enforcement efforts, business interests, our defense industry, and even U.S. tourists. In approaching the United Nations Conference, it is critical that the U.S. government negotiate and support making the trafficking of small arms traceable and eliminate the secrecy that permits thousands of weapons to fuel crime and war without anyone’s knowledge of their source.

It is my hope the United Nations will move to create international proce- dures to control the proliferation of small arms and light weapons. The United States has some of the strongest export controls in the world, and it is in the U.S. interest to see that those standards are equaled by the world community.
In addition, the United States has a moral responsibility to push for the development of measures that stop weapons from winding up in the hands of abusive government forces, terrorists, and drug-traffickers.

Specifically, the U.S. Government should champion a conference program of action that mandates countries’ early negotiations on legally binding procedures: a Framework Convention on International Arms Transfers that sets out export criteria based on countries’ current obligations under international law; and an International Agreement on Marking and Tracing that develops systems for adequate and reliable marking of arms at manufacture and import and record-keeping on arms production, possession and transfer.

The Program of Action must also include the establishment of regional and international transparency mechanisms and concrete steps to achieve improved implementation and enforcement of arms embargoes.

United States leadership should ensure that the conference is the first step, not the last, in the international community’s efforts to control the spread of small arms and light weapons.

Mr. SESSIONS. Mr. President, several people who opposed the nomination of Theodore B. Olson to be Solicitor General made charges that contained serious factual errors. These errors, I believe, debatable questions of interpretation when the facts are carefully examined. We have had our bipartisan investigation and hearing, and we have confirmed Mr. Olson, and we should move on; but we owe it to Mr. Olson engaged in word games in his answers. There is no indication that any Senator, or Mr. Olson, intended the term ‘word games’ to refer to anything other than the Scaife-funded journalistic efforts to investigate the Clintons’ history in Arkansas.

Thus, there were no word games by Mr. Olson in his responses to our questions. He was clear, he was candid, he admitted his answers expressly refer to the committee hearing, it was clear that critics suggest Mr. Olson tried to hide, Mr. Olson in fact volunteered to complete our questionnaire; he answered the questions asked at the hearing, and it is wrong and unfair to suggest otherwise.

At the very least, if any Senator was somehow personally uncertain what Mr. Olson intended when he was answering questions concerning the “Arkansas Project,” that Senator could have followed up at the hearing. No Senator did.

Second, some have argued that Mr. Olson improperly attempted to minimize his role in the so-called “Arkansas Project” during his confirmation hearing. The charges include allegations that only belatedly did Mr. Olson “admit” that he and his firm provided legal services to the American Spectator, that he had discussions in social settings with those working on Arkansas Project matters, and that he himself authored articles for the magazine paid for out of the special Richard Mellon Scaife fund.

Each of these allegations, however, is contradicted by the factual record. Mr. Olson consistently stated that he and others at his law firm provided legal services for the American Spectator magazine during its opening years, that he was not a shareholder in the magazine for those services at their normal market rates, and that the magazine paid them only for the legal services actually performed. Indeed, that Mr. Olson’s firm provided legal services to the American Spectator has been widely known and a matter of public record for several years. It is not something that he “admitted” under close questioning. Those legal services—involving such things as book keeping and other tasks—were not “in connection with” the “Arkansas Project,” and any suggestion to the contrary, based on the record as I know it, is wrong as a matter of fact.

As for Mr. Olson’s presence in social settings with individuals associated with the “Arkansas Project,” the questions were asked and Mr. Olson never made any attempt to conceal or minimize his attendance at those social events. He stated that he was unaware of any discussions at those events concerning the Scaife-funded efforts to investigate Clinton scandals, and no one has contradicted that testimony. Indeed, every knowledgeable individual—including one of Mr. Olson’s chief critics—has confirmed that testimony. I also understand that journalists employed by other magazines and newspapers—competitors of the American Spectator—and a wide range of other people have also attended social events. Thus, they also had discussions “in social settings” with those working on Arkansas Project matters, but no responsible person would assert that their attendance at those events made them participants in the American Spectator’s “Arkansas Project.”

Mr. Olson also testified during his hearing about his authorship and co-authorship of several articles critical of the Clintons and other public officials. Indeed, he voluntarily provided copies of those American Spectator articles to the Judiciary Committee in his response to the committee’s standard questionnaire, well in advance of his confirmation hearing. It is simply not correct, as a matter of fact, to suggest that he and his firm provided legal services for the American Spectator magazine during its opening years, that he was not a shareholder in the magazine for those services at their normal market rates, and that the magazine paid them only for the legal services actually performed, and any suggestion to the contrary, based on the record as I know it, is wrong as a matter of fact.

There was no “expansion” or change in Mr. Olson’s testimony on the foregoing points over the last several weeks. It is similarly inaccurate to say, as some critics do, that Mr. Olson “watered down” his answers, “changed” his recollections, or “conceded” additional knowledge. To a remarkable degree, Mr. Olson has clearly and consistently answered the questions we asked him. His testimony, moreover, has been fully confirmed by the individuals most closely associated with the “Arkansas Project,” including the editor-in-chief, editor, and publisher of the American Spectator magazine during the relevant time period, as well as the individuals who, who’s (sic) flowery was paid for writing articles for the American Spectator with the very different American Spectator. Thus, there is no one with peremptory knowledge of these events who has contradicted Mr. Olson.

Third, some mistakenly attempt to create a conflict in Mr. Olson’s testimony by confusing the amounts he was paid for writing articles for the American Spectator with the very different American Spectator. Thus, there is no one with peremptory knowledge of these events who has contradicted Mr. Olson.

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many years. Mr. Olson told the Senate that he was paid from $500 to $1,000 for his articles that appeared in the American Spectator magazine, whereas his firm received $94,405 for legal services.

The attempt to create a conflict on this issue by confusing apples with oranges. There were two different types of payments, for different types of services. In his April 19 answers, Mr. Olson explained that in addition to the $500 to $1,000 fees he received for the articles, his firm received $94,405 for legal services.

There were two different types of payments for legal services rendered to the [American Spectator] Foundation from time to time, by me and by others at the firm, at our normal market rates."

Given that those legal fees were for legal services provided to the magazine over a period of more than 5 years, involving the work of several attorneys, the $94,405 figure is in no way surprising. More significantly, Mr. Olson at all times distinguished between the firm’s legal fees and the separate, comparatively modest amounts he received personally for writing articles for the magazine. It is, again, a factual mistake to suggest that he ever sought to confuse those two amounts.

Fawke criticized Mr. Olson for allegedly refusing to respond to an allegation about American Spectator dinner parties. I question whether the Senate should even get into this issue of who attended what dinner parties, because of any service issue here, and the freedom of speech and press values inherent in a magazine’s activities. But this particular allegation was dubious and made by a source who publicly contradicted himself on this very allegation. The allegation appeared only in the pages of the Washington Post. No Senator asked Mr. Olson about that particular allegation, and we have never imposed on nominees of either party an obligation to track down and respond to every far-fetched charge that might find its way into print. Moreover, one member of the committee did make an inquiry about Mr. Olson’s social contacts with employees of the American Spectator and Mr. Olson fully answered that question in writing. So it is factually incorrect to state that he refused to respond to that question.

Fifth, Mr. Olson’s statement that his legal services for the American Spectator magazine were not for the purpose of investigating the Clintons, the Clintons is allegedly contradicted by the fact that Mr. Olson’s firm was compensated for legal research to prepare a chart outlining the Clintons’ criminal exposure, as research for a February 1994 article Mr. Olson co-authored entitled, ‘Criminal Laws Impli- cated by the Clinton Scandals: A Partial List.’ This charge again is contradicted by record facts. The 1994 engagement letter for Mr. Olson’s professional services expressly provided that Mr. Olson’s firm would not be required to “do any independent factual research.” In fact, there is nothing in the public record to suggest that Mr. Olson’s work in connection with that article, or for the magazine at any time, involved factual investigation of the Clintons. Comparing the publicly-available applicable Federal criminal code provisions, to publicly-available newspaper stories concerning allegations regarding the Clintons really cannot be described as an “investigation” of the Clintons.

While there were other factual inaccuracies in the attacks on Mr. Olson, this list demonstrates that the concerns raised regarding Mr. Olson’s candor before the Judiciary Committee were unjustified. It is particularly noteworthy that Robert Bennett, one of the most notable lawyers in this country and counsel to then-President Clinton, rejected the claim that Mr. Olson was less than candid in his responses to the Senate Judiciary Committee. More than almost any other person, he knows that facts of the Clinton matters. During an interview on CNN on May 22, Mr. Bennett stated: “I have recently read [Mr. Olson’s] responses to the Senate, and I have looked at a lot of the material, and if I were voting, I would say that Ted Olson was more than candid with the Senate.” Bennett is independent; he had no partisan axe to grind in favor of Mr. Olson in connection with this nomination; he, in fact, was a lead counsel for President Clinton for several years; he was not maneuvering for advantage in future nomination battles; he is a lawyer experienced in weighing evidence and cross-examining witnesses; he looked at the evidence; and his conclusion that these allegations are ill-founded is worthy of our respect.

I agree wholeheartedly with Mr. Bennett. I too have reviewed Mr. Olson’s statements before the committee regarding his role in the “Arkansas Project,” and I find Mr. Olson’s statements to be clear and accurate.

The Washington Post editorial board also shares this view. On May 18, after all of the questions regarding the “Arkansas Project,” and I find Mr. Olson’s statements to be clear and accurate.

THE VERY BAD DEBT BOXSCORE
Mr. HELMS. Mr. President, at the close of business Friday, July 6, 2001, the Federal debt stood at $5,710,979,327,576.62, five trillion, seven hundred ten billion, nine hundred seventy-nine million, three hundred twenty-seven thousand, five hundred sixty-six billion dollars and sixty-two cents. One year ago, July 6, 2000, the Federal debt stood at $5,665,885,000,000, five trillion, six hundred sixty-five billion, eight hundred eighty-five million.

Twenty-five years ago, July 6, 1976, the Federal debt stood at $613,075,000,000, six hundred thirteen billion, seventy-five million, which reflects a debt increase of more than $5 trillion. $5,097,904,327,576.62, five trillion, ninety-seven billion, nine hundred four million, three hundred twenty-seven thousand, five hundred sixty-six dollars and sixty-two cents during the past 25 years.

ADDITIONAL STATEMENTS
IN RECOGNITION OF REVEREND HURLEY J. COLEMAN SR.
Mr. LEVIN. Mr. President, today I acknowledge the life and accomplishments of a distinguished and principled public servant who served as a minister in my home State of Michigan, Reverend Hurley J. Coleman Sr. Today, people will be gathering in Saginaw, MI, to pay tribute to and celebrate the life of a man who for nearly five decades, served as a leader, spiritual mentor and role model in his community.

Throughout his life, Reverend Coleman dedicated himself to serving his family, his church and his God. The esteem in which he was held by all who knew him is due to the fact that Pastor Coleman’s life was a powerful testimony to the message he preached weekly at Coleman Temple Church of God in Christ.

Considered one of the deans of the Saginaw clergy, Pastor Coleman’s career had a humble beginning. Licensed as a minister in the Church of God in Christ in 1953, Pastor Coleman’s first congregation gathered for worship in his home. A short four years after the inception of this congregation, they broke ground for a new church. This facility was over 500—a number considering that the Pastor’s first congregation included only six members.
During his tenure as pastor, Hurley Coleman played a pivotal role in the struggle for racial equality and other civil rights causes. In these efforts, he has been able to unite people of different races and denominations around the common goal of improving life for all people.

I believe that nothing bears witness to the depth and integrity of Pastor Coleman’s ministry and life more than his family. Pastor Coleman and his wife Martha were married for 51 years. During this time they served the community and were able to raise 10 children. These children: Hurlette Dickens, Hurley Jr., Charles, Ritchie, Ronnie, E. Yvonne Lewis, Myra Williams, Elaine Bonner, Evelyn Yeager and Edna Coleman, are pillars in their community who have followed their parent’s example of service to others.

The vitality and strength of our Nation is due, in a large part, to the dedication and efforts of individuals like the Reverend Hurley J. Coleman Sr. Reverend Coleman and his wife were a dedicated couple whose love for one another and their family touched the entire community that they tirelessly sought to serve. I am sure that my Senate colleagues will join me in honoring the memory of the Reverend Hurley J. Coleman Sr., and in wishing his family well in the years ahead.

TRIBUTE TO ANGELA PEREZ BARAQUIO

Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Angela Perez Baraqui of Honolulu, HI, on being named as Miss America 2001.

Angela received a BA in education from the University of Hawaii, Manoa, and earned academic awards in college including: University Dean’s List, Golden Key National Honor Society Membership, Honors Program, Mercado Kim Academic Scholarship, Sibyl Nyborg Haide Student Teaching Grant and Evelyn Siu Foo Scholarship in Elementary Education.

Angela is a K-3rd grade physical education teacher and 5th-8th grade coach and athletic director at Holy Family Catholic Academy. She is active in her local community as Choir Director at St. Augustine by the Sea Catholic Church in Waikiki.

Her platform, Character in the Classroom: Teaching Values, Valuing Teachers, recognizes the important contributions that teachers make in our country and encourages the adoption of character development programs in schools throughout the United States. Angela aspires to complete a Master’s degree in Education to accomplish her platform goals.

Angela is visiting New Hampshire for the first time on July 11, 2001. She has been invited by the University of New Hampshire to be a keynote speaker at “New Hampshire Celebrates Team Nutrition Day.” The special event held during the University of New Hampshire’s 2-week institute for school professionals recognizes the efforts of administrators and teachers who develop programs that provide nutritional and fitness instruction for the youth of the state. Now in its fifth year, the institute is the only one of its kind in the United States.

The Miss America Organization is one of the Nation’s leading achievement programs and the world’s largest provider of scholarships for young women. The Miss American Organization promotes the opportunity to grow personally and professionally while instilling a spirit of community service through a variety of community-based programs.

As a former schoolteacher, I commend Angela for her selfless dedication to the education of the young people of Hawaii and our country. I wish her well as she continues her education and continues to enrich the lives of the children in Hawaii.

WESTMINSTER CHRISTIAN ACADEMY

Mr. BOND. Mr. President, I rise to recognize Westminster Christian Academy in St. Louis on winning the Region 3 award at the We the People... The Citizen and the Constitution national finals held on April 21–23, 2001.

This award is presented to the school in each of five geographic regions with the highest cumulative score during the national finals. The students of Westminster Christian Academy competed against 49 classes throughout the nation. They demonstrated a remarkable understanding of the fundamental ideas and values of American constitutional Government.

I had the pleasure to meet with this group of outstanding students during their visit in April, and I am pleased to congratulate them and their teacher Mr. Ken Boesch on such a fine accomplishment. I also congratulate Westminster Christian Academy as well, for proving to be a model school that has installed an example that should be followed by schools throughout the nation. Through hard work, dedication, and discipline they have surpassed the medium.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. HUTCHINSON (for himself and Mr. DURBIN): S. 328.

1. At the request of Ms. Snowe, the name of the Senator from South Dakota (Mr. Johnson) was added as a cosponsor of S. 256, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of annual screening pap smear and screening pelvic exams.

S. 256

2. At the request of Mr. Hagel, the name of the Senator from Wisconsin (Mr. Kohl) was added as a cosponsor of S. 281, a bill to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial.

S. 281

3. At the request of Ms. Collins, the name of the Senator from West Virginia (Mr. Rockefeller) was added as a cosponsor of S. 326, a bill to amend title XVIII of the Social Security Act to eliminate the 15 percent reduction in payment rates under the prospective payment system for home health services and to permanently increase payments for such services that are furnished in rural areas.

S. 326

4. At the request of Mr. Sartezes, the names of the Senator from Connecticut (Mr. Lieberman) and the Senator from Alabama (Mr. Sessions) were added as cosponsors of S. 392, a bill to grant a Federal Charter to the Korean War Veterans Association, Incorporated, and for other purposes.

S. 392

5. At the request of Mr. Muskowski, the name of the Senator from Virginia (Mr. Allen) was added as a cosponsor of S. 422, a bill to amend title XVIII of the Social Security Act to ensure that the Secretary of Health and Human Services provides appropriate guidance to physicians, providers of services, and ambulance providers that are attempting to properly submit claims under the Medicare program to ensure that the Secretary does not target inadvertent billing errors.

S. 422

6. At the request of Mr. Domenici, the name of the Senator from New Mexico (Mr. Bingaman) was added as a cosponsor of S. 543, a bill to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits.

S. 543

7. At the request of Mr. Kennedy, the name of the Senator from Massachusetts (Mr. Kerry) was added as a cosponsor of S. 583, a bill to amend the Food Stamp Act of 1977 to improve nutrition assistance for working families and the elderly, and for other purposes.

S. 583

8. At the request of Mr. Schumer, the name of the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of S. 588, a bill to reduce acid
deposition under the Clean Air Act, and for other purposes.
S. 657

At the request of Mr. LUGAR, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 657, a bill to authorize funding for the National 4-H Program Centennial Initiative.

S. 661

At the request of Mr. BREAUX, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 661, a bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent motor fuel exercise taxes on railroads and inland waterway transportation which remain in the general fund of the Treasury.

S. 690

At the request of Mr. WELLSTONE, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 690, a bill to amend title XVIII of the Social Security Act to expand and improve coverage of mental health services under the medicare program.

S. 754

At the request of Mr. LEAHY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 754, a bill to enhance competition for prescription drugs by increasing the ability of the Department of Justice and Federal Trade Commission to enforce existing antitrust laws regarding brand name drugs and generic drugs.

S. 804

At the request of Mrs. FEINSTEIN, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 804, a bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks; to required fuel economy standards for automobiles up to 10,000 pounds gross weight; to raise the fuel economy of the Federal fleet of vehicles, and for other purposes.

S. 913

At the request of Ms. SNOWE, the names of the Senator from South Dakota (Mr. JOHNSON) and the Senator from Maine (Mrs. SPECTER) were added as cosponsors of S. 913, a bill to amend title XVIII of the Social Security Act to provide for coverage under the medicare program of all oral anticancer drugs.

S. 1025

At the request of Mr. LIEBERMAN, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1025, a bill to provide for savings for working families.

S. 1078

At the request of Mr. LEVIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1078, a bill to promote brownfields redevelopment in urban and rural areas and spur community revitalization in low-income and moderate-income neighborhoods.

S. 1079

At the request of Mr. LEVIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1079, a bill to amend the Public Works and Economic Development Act of 1965 to provide assistance to communities for the redevelopment of brownfield sites.

S. 1095

At the request of Mr. THOMPSON, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Massachusetts (Ms. BOXER) were added as cosponsors of S. 1095, a bill to amend title 38, United States Code, to restore promised GI Bill educational benefits to Vietnam era veterans, and for other purposes.

S. 1131

At the request of Mr. CRAIG, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 1153, a bill to amend the Food Security Act of 1985 to establish a grassland reserve program to assist owners in restoring and protecting grassland.

S. RES. 61

At the request of Mr. HUTCHINSON, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. Res. 61, a resolution expressing the sense of the Senate that the Secretary of Veterans Affairs should recognize board certifications from the American Association of Physician Specialists, Inc., for purposes of the payment of special pay by the Veterans Health Administration.

S. RES. 71

At the request of Mr. HARKIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 71, a resolution expressing the sense of the Senate regarding the need to preserve six day mail delivery.

S. RES. 72

At the request of Mr. SPECTER, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. Res. 72, a resolution designating the month of April as “National Sexual Assault Awareness Month.”

S. RES. 119

At the request of Mr. BAYH, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 119, a resolution combating the Global AIDS pandemic.

S. CON. RES. 3

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. Con. Res. 3, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued in honor of the U.S.S. Wisconsin and all those who served aboard her.

S. CON. RES. 45

At the request of Mr. FITZGERALD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. Con. Res. 45, a concurrent resolution expressing the sense of Congress that the Humane Methods of Slaughter Act of 1958 should be fully enforced so as to prevent needless suffering of animals.

S. CON. RES. 53

At the request of Mr. HAGEL, the names of the Senator from Delaware (Mr. BIDEN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. Con. Res. 53, concurrent resolution encouraging the development of strategies to reduce hunger and poverty, and to promote free market economies and democratic institutions, in sub-Saharan Africa.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 59—EXPRESSING THE SENSE OF CONGRESS THAT THERE SHOULD BE ESTABLISHED A NATIONAL COMMUNITY HEALTH CENTER WEEK TO RAISE AWARENESS OF HEALTH SERVICES PROVIDED BY COMMUNITY, MIGRANT, PUBLIC HOUSING, AND HOMELESS HEALTH CENTERS

Mr. HUTCHINSON (for himself and Mr. DURBIN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 59

Whereas community, migrant, public housing, and homeless health centers are non-profit and community owned and operated health providers that are vital to the Nation’s communities;

Whereas there are more than 1,029 of these health centers serving nearly 12,000,000 people at 3,200 health delivery sites, spanning urban and rural communities in the 50 states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands;

Whereas these health centers have provided cost-effective, quality health care to the Nation’s poor and uninsured, including the working poor, the uninsured, and many high-risk and vulnerable populations;

Whereas these health centers act as a vital safety net in the Nation’s health delivery system, meeting escalating health needs and reducing health disparities;

Whereas these centers provide care to 1 of every 9 uninsured Americans, 1 of every 8 low-income Americans, and 1 of every 10 rural Americans, who would otherwise lack access to health care;

Whereas these health centers make health care responsive and cost-effective by integrating the delivery of primary care with aggressive outreach, patient education, translation, and enabling support services;

Whereas these health centers increase the use of preventive health services such as immunizations, Pap smears, mammograms, and glaucoma screenings;

Whereas in communities served by these health centers, infant mortality rates have been reduced between 50% and 75%;

Whereas these health centers are built by community initiative;
WHEREAS Federal grants provide seed money empowering communities to find partners and resources and to recruit doctors and health professionals; whereas Federal grants, on average, contribute 28 percent of these health centers’ budgets, with the remainder provided by State and local governments, Medicare, Medicaid, private contributions, private insurance, and patient fees; whereas these health centers are community oriented and patient focused; whereas these health centers tailor their services to fit the special needs and priorities of communities, working together with schools, businesses, churches, community organizations, foundations, and State and local governments; whereas these health centers contribute to the health and well-being of their communities by keeping children healthy and in school and helping adults remain productive and on the job; whereas these health centers engage citizens partially and provide jobs for 50,000 community residents; and Whereas the establishment of a National Community Health Center Week for the week beginning August 19, 2001, would raise awareness of the health services provided by these health centers: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) there should be established a National Community Health Center Week to raise awareness of health services provided by community, migrant, public housing, and homeless health centers; and

(2) the President should issue a proclamation calling on the people of the United States and interested organizations to observe such a week with appropriate programs and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 861. Mr. BYRD (for himself and Mr. STEVENS) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 11, after line 8, insert the following:

"S. 1297. Of the amounts appropriated in this Act under the heading ‘Operation and Maintenance, Army’, $8,000,000 shall be available for the purpose of repairing storm damage at Fort Sill, Oklahoma, and Red River Army Depot, Texas, and insert in lieu thereof $8,000,000.""

On page 11, after line 8, insert the following:

"S. 1298. Of the total amount appropriated under this Act to the Army for operation and maintenance, such amount as may be necessary shall be available for a conveyance by the Secretary of the Army, without consideration, of all right, title, and interest of the United States in and to the firefighting and rescue vehicles described in subsection (b) to the City of Bayonne, New Jersey.

(b) The firefighting and rescue vehicles referred to in subsection (a) are a rescue hazardous materials truck, a 2,000 gallon per minute pump truck, and a 100-foot elevator platform truck, all of which are at Military Ocean Terminal, Bayonne, New Jersey.""

On page 11, line 15, before the period, insert: ": Provided, That funding is authorized for Project 01-D-107, Atlas Relocation and Operations, and Project 01-D-108, Micro-systems and Engineering Science Application Complex."

On page 13, after line 8, insert the following:

"GENERAL PROVISIONS—THIS CHAPTER

Sec. 1401. In addition to amounts appropriated or otherwise made available elsewhere in the Military Construction Appropriations Act, 2001, and in this Act, the following amounts are hereby appropriated as authorized by section 2861 of title 10, United States Code, as follows for the purpose of repairing storm damage at Ellington Air National Guard Base, Texas, and Fort Sill, Oklahoma:

<table>
<thead>
<tr>
<th>Appropriation</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Military Construction, Air National Guard</td>
<td>$6,700,000</td>
</tr>
<tr>
<td>Military Construction, Army</td>
<td>$1,000,000</td>
</tr>
</tbody>
</table>

"Provided, That the funds in this section shall remain available until September 30, 2005."

Sec. 1402. Notwithstanding any other provision of law, the amount authorized and provided for in this Act shall be used to support the Department for the TRICARE Management Agency for a military construction project for Basset Army Hospital at Fort Wainwright, Alaska, shall be $215,000,000.""

On page 13, after line 12, insert the following:

"OFFICE OF THE SECRETARY

For an additional amount for “Office of the Secretary”, $3,000,000, to remain available until September 30, 2002: Provided, That of this amount, no less than $1,000,000 shall be used for enforcement of the Animal Welfare Act: Provided further, That of these funds, no less than $1,000,000 shall be used to enhance humane treatment practices under the Federal Meat Inspections Act: Provided further, That no more than $500,000 of these funds shall be made available to the Under Secretary for Research, Education and Economics for development and demonstration of technologies to promote the humane treatment of animals: Provided further, That these funds may be transferred to and merged with appropriations for agencies performing this work.""

On page 14, after line 25, insert the following:

"Sec. 2103. (a) Not later than August 1, 2001, the Federal Crop Insurance Corporation shall promulgate final regulations to carry out section 522(b) of Federal Crop Insurance Act (7 U.S.C. 522(b)), without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code; and

(2) chapter 35 of title 44, United States Code (commonly known as the ‘Paperwork Reduction Act’).

(b) In carrying out this section, the Corporation shall use the authority provided under section 808 of title 5, United States Code.

(c) The final regulations promulgated under subsection (a) shall take effect on the date of publication of the final regulations.""

On page 14, after line 25, insert the following new section:

"Sec. 2106. Under the heading of ‘Food Stamp Program’ in Public Law 106-387, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001, in the sixth proviso, strike ‘$194,000,000’ and insert in lieu thereof ‘$191,000,000’.

On page 15, after line 22, strike ‘$110,000,000’ and insert ‘$114,800,000’.

On page 16, beginning with line 25, strike all through line 4 on page 17.

On page 17, line 5, strike ‘2292’ and insert ‘2293’.

On page 17, line 24, strike ‘2293’ and insert ‘2292’.

On page 22, line 12, after ‘purposes of D.C. Code, sec. 5-513:’ strike ‘Provided,’ and in subsection (b), strike ‘Provided, That the Department shall transfer all local funds resulting from the lapse of personnel vacancies, caused by transferring Department of Consumer and Regulatory Affairs employees into NSE positions without the filling of the resultant vacancies, into the general fund to be used to implement the provisions in DC Bill 13-646, Amendment and Conformity of Nuisance Properties Omnibus Amendment Act of 2000, pertaining to the prevention of the
demolition by neglect of historic properties: Provided further.

On page 28, after line 2, insert the following:

"Sec. 2942. Of the funds provided under the heading ‘Power Marketing Administration, Construction, Rehabilitation, Operation and Maintenance, Western Area Power Administration’ in title 10, chapter 37, not to exceed $250,000 shall be provided for a study to determine the costs and feasibility of transmission expansion: Provided, That these funds are non-reimbursable: Provided further, That these funds shall be available until expended.”

On page 29, after line 4, insert the following:

"BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

"(INCLUDING TRANSFERS OF FUNDS)

For an additional amount to address increased permitting responsibilities related to energy needs, $3,000,000, to remain available until expended, and to be derived by transfer from unobligated balances available to the Department of the Interior for the acquisition of lands and interests in lands.

On page 34, before the colon on line 18, insert the following: “Provided further, That the rescission of funds under section 132(a)(2) shall take effect at the time the Secretary re-allocates excess unexpended balances to the States.”

On page 39, line 22, strike “PROVISION” and insert “PROVISIONS”.

On page 41, line 6 strike “September 30, 2001” and insert “August 4, 2001”.

On page 41, after line 6, insert the following new section:

"SEC. 2702. (a) ESTABLISHMENT OF GRANT PROGRAM.—Section 396 of the Communications Act of 1934 (47 U.S.C. 396) is amended by adding the following new subsection:

"GRANT ASSISTANCE FOR TRANSITION TO DIGITAL BROADCASTING

"(1) The Corporation may, by grant, provide financial assistance to eligible entities for the purpose of supporting the transition of those entities from the use of analog to digital technology for the provision of public broadcasting services.

"(2) Any “public broadcasting entity” as defined in section 397(11) of the Communications Act of 1934 (47 U.S.C. 397(11)) is an eligible entity to receive grants under this subsection.

"(3) Proceeds of grants awarded under this subsection shall be used for costs associated with the transition of public broadcasting stations to access digital broadcast services, including for the support of digital transmission facilities and for the development, production, and distribution of digital programs and services.

"(4) The grants shall be distributed to the eligible entities in accordance with principles and criteria established by the Corporation in consultation with the public broadcasting licensees and officials of national and regional representative organizations of public broadcasting licensees. The principles and criteria shall include special priority for providing digital broadcast services to:

"(A) rural or remote areas;

"(B) areas under-served by public broadcast stations; and

"(C) areas where the conversion to, or establishment of primary digital public broadcasting services, is impaired by an insufficient availability of private funding for that purpose, by reason of the small size of the population or the low average income of the residents of the area.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

Subsection (k) of section 396 of the Communications Act of 1934 (47 U.S.C. 396) is amended—

"(1) by re-designating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

"(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) In addition to any amounts authorized under any other provision of this Act or any other Act to be appropriated to the Fund, funds made available for the Fund solely (notwithstanding any other provision of this Act) for carrying out the purposes of subsection (n) as follows:

"(i) For fiscal year 2001, $30,000,000 to carry out the purposes of subsection (n);

"(ii) For fiscal year 2002, such sums as may be necessary to carry out the purposes of subsection (n);”

On page 42, after line 19, insert the following:

"‘Sec. 2803. Notwithstanding any limitation in 31 U.S.C. sec. 1553(b) and 1554, the Architect of the Capitol may use current year appropriations to reimburse the Department of the Treasury for prior year water and sewer services payments otherwise chargeable to closed accounts.”

On page 42, after line 25, insert the following:

"ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for ‘Acquisition, Construction, and Improvements’, $4,000,000 shall be available until expended, for the repair of Coast Guard facilities damaged during the Nisqually earthquake or for costs associated with moving the affected Coast Guard assets to an alternative site within Seattle, Washington.

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

AIRPORT AND AIRWAY TRUST FUND

RESCISSION OF CONTRACT AUTHORIZATION

Of the unobligated balances available under 49 U.S.C. 41806, as amended, $30,000,000 are rescinded.

On page 43, after line 1, insert the following:

EMERGENCY HIGHWAY RESTORATION

For the costs associated with the long term restoration or replacement of seismically-vulnerable highways recently damaged during the Nisqually earthquake, $12,000,000, to remain available until expended: Provided, That the amount made available under this heading, $3,800,000 shall be for the Alaskan Way Viaduct in Seattle, $9,000,000 shall be for the Magnolia Bridge in Seattle, Washington.

On page 43, at the end of line 6, insert the following: “Public Law 102-240.”

On page 43, line 7, strike “$10,000,000” and insert “$14,000,000.”

On page 43, after line 7, insert the following:

ALASKA RAILROAD COMMISSION

To enable the Secretary of Transportation to make an additional grant to the Alaska Railroad, $2,000,000 for a joint United States-Canada commission to study the feasibility of connecting the rail system in Alaska to the North American continental rail system.”

On page 44, after line 24, insert the following:

SEC. 2903. Hereafter, funds made available under “Capital Investment Grants” in Public Law 105-277 for item number 15 and for any new fixed guideway system project cited as a “fixed guideway modernization” project shall not be made available for any other federal transit project.

On page 44, between lines 21 and 22, insert the following:

FEDERAL PAYMENT TO MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Of the funds available under this heading in H.R. 5658 of the 106th Congress, as incorporated by reference in Public Law 106-554, $1,000,000 shall be transferred and made available for necessary expenses incurred pursuant to section 6(7) of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Act of 1992 (20 U.S.C. 5604(7)), to remain available until expended.

On page 48, after line 20, insert the following:

SEC. 3003. DESIGNATION OF ENGINEERING AND MANAGEMENT BUILDING AT NORFOLK NAVAL SHIPYARD, VIRGINIA, AFTER NORMAN SISIKSY

The engineering and management building (also known as Building 1500) at Norfolk Naval Shipyard, Portsmouth, Virginia, shall be known as the Norman Sisisky Engineering and Management Building. Any reference to that building in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Norman Sisisky Engineering and Management Building.

SA 862, Mr. Reid (for Mr. Schumer (for himself, Mr. Reed, Mr. Dodd, Mr. Lieberman, Mr. Corzine, and Mr. Reid)) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 44, line 20, strike “$66,200,000” and insert “$32,300,000.”

SA 863, Mr. Reid (for Mr. Feingold) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 47, line 29, beginning on line 9, strike “$100,000,000” and all that follows through line 13, and insert the following: “$695,000,000, to remain available until expended: Provided, That the amount made available, notwithstanding any other provision of law, for a United States contribution to a global trust fund to combat HIV/AIDS, malaria, and tuberculosis: Provided, further, That the entire amount made available under this heading is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided, further, That the entire amount under this heading shall be available only to the extent that an official budget request for that specific dollar amount that includes the designation of the entire amount of the request as an emergency requirement fund defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided, further, That the total amount of the rescission for ‘Airspace Procurement, Navy, 2001’ section 1204 is hereby increased by $594,000,000.”.

SA 864, Mr. Craig (for himself, Mr. Cleland, Mr. Miller, Mr. Crapo, and Mr. Brownback) proposed an amendment to the bill S. 1077,
making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. 1. None of the funds available to the Department of Defense for fiscal year 2001 may be obligated or expended for retiring or dismantling, or for preparing to retire or dismantle, any of the major B-52 Lancer bombers in service as of June 1, 2001, or for transferring or reassigning any of those aircraft from the unit, or the facility, to which assigned as of that date.

SA 885. Mr. Voinovich (for himself, Mr. Helms, Mr. Sessions, and Mr. Craig) introduced an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert the following:


(a) SHORT TITLE.―This section may be cited as the “Protect Social Security Surplus Acts of 2001”.

(b) DIVISION OF ENFORCING DEFICIT TARGETS.―The Balanced and Emergency Deficit Control Act of 1985 (2 U.S.C. 903) is amended—

(1) by striking subsection (b) and inserting the following:

“‘(b) Excess Deficit; Margin.—The excess deficit is, if greater than zero, the estimated deficit for the budget year, minus the margin for that year. In this subsection, the margin for each fiscal year is 0.5 percent of estimated total outlays for that fiscal year;”;

(2) by striking subsection (c) and inserting the following:

“‘(c) Eliminating Excess Deficit.—Each non-exempt account shall be reduced by a dollar amount calculated by multiplying the baseline level of sequesterable budgetary resources in that account at that time by the uniform percentage necessary to eliminate an excess deficit;”;

(3) by striking subsections (g) and (h).

(c) ECONOMIC AND TECHNICAL ASSUMPTIONS.―Notwithstanding section 254(h) of the Balanced and Emergency Deficit Control Act of 1985 (2 U.S.C. 904(h)), the Office of Management and Budget shall use the economic and technical assumptions underlying the requirement in subsection (b) to section 1106 of title 31, United States Code, for purposes of determining the excess deficit under section 253(b) of the Balanced and Emergency Deficit Control Act of 1985, as added by subsection (b).

(d) APPLICATION OF SEQUESTRATION TO BUDGET ACCOUNTS.―Section 256(k) of the Balanced and Emergency Deficit Control Act of 1985 (2 U.S.C. 906(k)) is amended by—

(1) striking paragraph (2); and

(2) redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively.

(e) STRENGTHENING SOCIAL SECURITY POINT OF ORDER.―In general.

(1) GENERAL EXCLUSION FROM ALL BUDGETS.―Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

“‘EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS.―Notwithstanding any other provision of law, the receipts and disbursements of the Federal Hospital Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President;

(2) the concurrent resolution.

(3) the Balanced and Emergency Deficit Control Act of 1985.

(4) ENFORCEMENT OF MEDICARE LEVELS IN THE SENATE.―After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a decrease in surpluses or an increase in deficits of the Federal Hospital Insurance Trust Fund in any of the fiscal years covered by the concurrent resolution.

(f) BASELINE TO EXCLUDE HOSPITAL INSURANCE TRUST FUND.―Section 257(b)(3) of the Balanced and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

“‘SA 886. Mr. Byrd (for Mr. Conrad) proposed an amendment to amendment SA 865 by Mr. Voinovich to the bill (S. 1077) making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE SOCIAL SECURITY AND MEDICARE OFF-BUDGET LOCKBOX ACT OF 2001

SEC. 1. SHORT TITLE. This title may be cited as the “Social Security and Medicare Off-Budget Lockbox Act of 2001”.

SEC. 2. STRENGTHENING SOCIAL SECURITY POINT OF ORDER. In general.

(1) GENERAL EXCLUSION FROM ALL BUDGETS. It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend this section.

(2) SUPER MAJORITY REQUIREMENT. (A) POINT OF ORDER. Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting “312(g),” after “310(d)(2),”.

(B) WAIVER. Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting “312(g),” after “310(d)(2),”.

(C) EFFECTIVE DATE. This section and the amendments made by this section shall apply to fiscal years 2002 through 2006.

SEC. 3. MEDICARE TRUST FUND OFF-BUDGET. (a) In general.

(1) GENERAL EXCLUSION FROM ALL BUDGETS. Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following:

“‘EXCLUSION OF MEDICARE TRUST FUND FROM ALL BUDGETS. It shall not be in order in the House of Representatives or the Senate to consider a concurrent resolution on the budget (or any amendment thereto or conference report thereon) or any bill, joint resolution, amendment, motion, or conference report that would violate or amend this section.”.

(B) BASELINE TO EXCLUDE HOSPITAL INSURANCE TRUST FUND. Section 257(b)(3) of the Balanced and Emergency Deficit Control Act of 1985 is amended by adding at the end the following:

"(c) Budget Totals.—Section 301(a) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)) is amended by inserting after paragraph (7) the following:

“(8) For purposes of Senate enforcement under this title, revenues and outlays of the Federal Hospital Insurance Trust Fund for each fiscal year covered by the budget resolution.

(d) Budget Resolutions.—Section 301(i) of the Congressional Budget Act of 1974 (2 U.S.C. 632(i)) is amended by inserting at the end the following:

‘‘(4) ENFORCEMENT OF MEDICARE LEVELS IN THE SENATE. After a concurrent resolution on the budget is agreed to, it shall not be in order in the Senate to consider any bill, joint resolution, amendment, motion, or conference report that would cause a decrease in surpluses or an increase in deficits of the Federal Hospital Insurance Trust Fund in any of the fiscal years covered by the concurrent resolution.’’."

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"Medicare as funded through the Federal Hospital Insurance Trust Fund.").

(b) BUDGETARY TREATMENT OF HOSPITAL INSURANCE TRUST FUND.—Section 711(a) of the Social Security Act (42 U.S.C. 911(a)) is amended—

(1) by striking "and" the second place it appears and inserting a comma; and

(2) by inserting "Federal Disability Insurance Trust Fund" the following: ". Federal Hospital Insurance Trust Fund.

SEC. 54. PREVENTING ON-BUDGET DEFICITS.

(a) POINTS OF ORDER TO PREVENT ON-BUDGET DEFICITS.—Section 312 of the Congressional Budget Act of 1974 (2 U.S.C. 634) is amended by adding at the end the following: 

"(h) BUDGETARY TREATMENT OF HOSPITAL INSURANCE TRUST FUND."

"(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would cause or increase an on-budget deficit for any fiscal year.

"(2) SUBSEQUENT LEGISLATION.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

"(A) the enactment of that bill or resolution as reported;"

"(B) the addition and enactment of that amendment; or"

"(C) the enactment of that bill or resolution in the form recommended in that conference report, would cause or increase an on-budget deficit for any fiscal year.".

(b) SUPER MAJORITY REQUIREMENT.—

(1) Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting "312(h)", after "312(g)",.

(2) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting "312(h)", after "312(g)",.

SA 867. Mr. CONRAD proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 47, between lines 20 and 21, insert the following:

COMMUNITY DEVELOPMENT BLOCK GRANTS

For emergency housing for Indians on the Turtle Mountain Indian Reservation, there shall be made available $10,000,000 through the Indian community development block grant program under the Housing and Community Development Act of 1974. Amounts made available for programs administered by the Department of Housing and Urban Development for fiscal year 2001 shall be reduced on a pro rata basis by $10,000,000. The Federal Emergency management Agency shall provide the assistance to Indians with respect to the acquisition of emergency housing on the Turtle Mountain Indian Reservation.

SA 868. Mr. STEVENS (for Mr. MCCAIN (for himself, Mr. LIEBERMAN, and Ms. LANDRIEU)) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 11, between lines 8 and 9, insert the following:

SEC. 1207. In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 in other provisions of this Act or in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

(a) In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 by other provisions of this Act or the Department of Defense Appropriations Act, 2001 (Public Law 106–259), funds are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, for the following:

(b) Of the unobligated balance of the entire amount made available in this section is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

(1) Under the heading "MILITARY PERSONNEL, NAVY", $1,000,000.

(2) Of the funds appropriated to the Department of Defense for fiscal year 2001, for purposes under headings in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

(b) Other Procurement, Air Force.

(c) Operation and Maintenance, Navy.

(d) Operation and Maintenance, Marine Corps.

"(h) BUDGETARY TREATMENT OF HOSPITAL INSURANCE TRUST FUND."

"(1) CONCURRENT RESOLUTIONS ON THE BUDGET.—It shall not be in order in the House of Representatives or the Senate to consider any concurrent resolution on the budget, or conference report thereon or amendment thereto, that would cause or increase an on-budget deficit for any fiscal year.

"(2) SUBSEQUENT LEGISLATION.—It shall not be in order in the House of Representatives or the Senate to consider any bill, joint resolution, amendment, motion, or conference report if—

"(A) the enactment of that bill or resolution as reported;"

"(B) the addition and enactment of that amendment; or"

"(C) the enactment of that bill or resolution in the form recommended in that conference report, would cause or increase an on-budget deficit for any fiscal year.".

(b) SUPER MAJORITY REQUIREMENT.—

(1) Section 904(c)(1) of the Congressional Budget Act of 1974 is amended by inserting "312(h)", after "312(g)",.

(2) WAIVER.—Section 904(d)(2) of the Congressional Budget Act of 1974 is amended by inserting "312(h)", after "312(g)",.

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SA 868. Mr. STEVENS (for Mr. MCCAIN (for himself, Mr. LIEBERMAN, and Ms. LANDRIEU)) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 11, between lines 8 and 9, insert the following:

SEC. 1207. In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 in other provisions of this Act or in the Department of Defense Appropriations Act, 2001, and in amounts, as follows:

(a) In addition to the amounts appropriated to the Department of Defense for fiscal year 2001 by other provisions of this Act or the Department of Defense Appropriations Act, 2001 (Public Law 106–259), funds are hereby appropriated, out of any funds in the Treasury not otherwise appropriated, for the following:

(b) Of the unobligated balance of the entire amount made available in this section is hereby appropriated, out of any funds in the Treasury not otherwise appropriated, to the Department of Defense for the fiscal year ending September 30, 2001, for purposes under
(5) Of the funds appropriated to the Department of Transportation for the Maritime Administration under the heading “Maritime Guaranteed Loan Program (Title XI) Program Account” for the Department of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–553), $21,000,000.

(6) Of the funds appropriated for the Export-Import Bank under the heading “Subsidy Appropriation” in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2001 (as enacted into law by Public Law 106–429), $80,000,000.

(7) Of the funds appropriated to the Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554), the following amounts:

(A) From the amounts for Dislocated Worker Employment and Training Activities, $41,500,000.

(B) From the amounts for Adult Employment and Training, $34,000,000.

(8) Of the unobligated balance of funds previously appropriated to the Department of Transportation for the Federal Transit Administration under the heading “Training and Employment Services” in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–554), the following amounts:

(A) From the amounts for Transit Planning and Research, $34,000,000.

(B) From the amounts for Job Access and Reverse Commute Grants, $76,000,000.

SA 872. Mr. BOND (for himself and Mr. MCCAIN) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 29, between lines 2 and 3, insert the following:

SEC. 2502. In exercising the authority to provide cash transfer assistance for Israel for the fiscal year ending September 30, 2001, the President shall—

(1) ensure that the level of such assistance does not cause an adverse impact on the total level of non-military exports from the United States to Israel; and

(2) enter into an agreement with Israel providing for the purchase of grain in the same amount and in accordance with terms at least as favorable as the side letter agreement in effect for the fiscal year ending September 30, 2000.

SA 872. Mr. STEVENS (for Mr. HUTCHINSON) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 13, between lines 23 and 24, insert the following:

FOREST SERVICE
STATE AND PRIVATE FORESTRY

For an additional amount for “State and Private Forestry” to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

NATIONAL FOREST SYSTEM

For an additional amount for the “National Forest System” to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $10,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for “Capital Improvement and Maintenance” to repair damage caused by ice storms in the States of Arkansas and Oklahoma, $1,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement under section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

SA 871. Mr. STEVENS (for Mr. CRAIG) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert the following:

The Internal Revenue Code of 1986 shall be applied and administered as if such section 101 (and the amendments made by such section) had not been enacted—

(3) CONFORMING AMENDMENTS.

(A) In General.—Section 1 of the Internal Revenue Code of 1986 (relating to tax im-

(i) the rate of tax under sections (a), (b), (c), and (d) on taxable income not over the initial bracket amount shall be 10 per-

(ii) the 15 percent rate of tax shall apply only to taxable income over the initial bracket amount but not over the maximum bracket amount for the 15 percent rate bracket—

(B) INITIAL BRACKET AMOUNT.—For pur-

(i) $14,000 ($12,000 in the case of taxable years beginning before January 1, 2008) in the case of subsection (a),

(ii) $10,000 in the case of subsection (b), and

(iii) $11,500 in the case of subsection (c).

In the case of taxable years beginning after December 31, 2001—

(i) the Secretary shall make no adjustment to the initial bracket amount for any taxable year beginning before January 1, 2009,

(ii) the Secretary shall make no adjustment to the initial bracket amount for any taxable year beginning after December 31, 2008, shall be determined under subsection (f) by substituting ‘‘2007’’ for ‘‘2006’’ in subparagraph (B) of paragraph (2) of subsection (f), and

(iii) such adjustment shall not apply to the amount referred to in subparagraph (B) of subsection (f).

If any amount after adjustment under the preceding sentence is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

(2) REDUCTIONS IN RATES AFTER DECEMBER 31, 2008.—In the case of taxable years beginning in a calendar year after 2001, the corresponding percentage specified for such calendar year in the following table shall be substituted for the otherwise applicable tax rate in the tables under subsections (a), (b), (c), (d), and (e).

"(3) ADJUSTMENT OF TABLES.—The Secretary shall adjust the tables prescribed under subsection (f) to carry out this subsection."

(B) CONFORMING AMENDMENTS.—
(i) Subparagraph (B) of section 1(g)(7) of such Code is amended by striking “15 percent”; in clause (ii)(II) and inserting “10 percent.”

(ii) Section 1(b) of such Code is amended—

(A) by striking “28 percent” both places it appears in paragraphs (1)(A)(ii)(I) and (1)(B)(i) and inserting “25 percent”;

(B) by striking subparagraph (A) of section 1(b); and

(C) by inserting a new section 531 of such Code by striking “equal to” and all that follows and inserting “equal to the product of the highest rate of tax under section 1(c) and the accumulated taxable income.”;

(iv) Section 541 of such Code is amended by striking “equal to” and all that follows and inserting “equal to the product of the highest rate of tax under section 1(c) and the accumulated personal holding company income.”;

(v) Section 3402(p)(1)(B) of such Code is amended by striking “7, 15, 28, or 31 percent” and inserting “7 percent, any percentage applicable to any of the lowest income brackets in the table under section 1(c), and 25 percent.”

(vi) Section 3402(p)(2) of such Code is amended by striking “15 percent” and inserting “10 percent.”

(vi) Section 3402(q)(1) of such Code is amended by striking “equal to 28 percent of such payment” and inserting “equal to the product of the third lowest rate of tax applicable under section 1(c) and such payment.”

(vii) Section 3402(r)(3) of such Code is amended by striking “31 percent” and inserting “the fourth lowest rate of tax applicable under section 1(c).”

(ix) Section 3406(a)(1) of such Code is amended by striking “equal to 31 percent of such payment” and inserting “equal to the product of the third lowest rate of tax applicable under section 1(c) and such payment.”

(ii) Amendments to withholding provisions. —The amendments made by clauses (v), (vi), (vii), (viii), (ix), (x) and (x) of subparagraph (B) of section 277 apply to amounts paid after December 31, 2001.

(b) Reserve fund for defense and education. —Subtitle B of title II of H. Con. Res. 83 (107th Congress) is amended by inserting at the end the following:

"SEC. 219. STRATEGIC RESERVE FUND FOR DEFENSE AND EDUCATION.

If legislation is reported by the Committee on Appropriations of the Senate or the Committee on Appropriations of the House of Representatives, or an amendment thereto is offered or a conference report thereon is submitted, that would increase funding for defense or education, the chairman of the appropriate Committee on the Budget shall revise the aggregates, functional totals, allocations, and other appropriate levels and limitations for that measure by not exceeding the amount resulting from the repeal and amendments made by section (a) of the Supplemental Appropriations Act, 2001 for fiscal years 2001 and 2002, as long as that measure will not, when taken together with all other previously enacted legislation, reduce the on-budget surplus below the level of the Medicare Hospital Insurance Trust Fund surplus in any fiscal year provided in this resolution."

SA 874. Mr. REID (for Mr. WELLSTONE) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

On page 11, between lines 8 and 9, insert the following:

(RECISIONS)


(2) Such amount shall be rescinded from such Federal appropriations accounts as the Secretary of Defense shall specify before July 31, 2001, in determining the amounts to specify, the Secretary of Defense shall take into consideration the need to promote efficiency, cost-effectiveness, and productivity within the Department of Defense, as well as to maintain readiness and troop quality of life.

(b) Effective August 1, 2001, if the Secretary of Defense has not specified accounts for rescissions under subsection (a), an amount equal to $150,000,000 is rescinded through proportional reductions to the portions of such accounts that contain such funds.

On page 36, line 9, strike "$300,000,000" and insert "$450,000,000".

SA 875. Mr. REID (for Mr. JOHNSON) proposed an amendment to the bill S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, and for other purposes; as follows:

At the appropriate place, insert the following:

"SEC. 2. EXTENSION OF INTEREST RATE PROVISIONS.

(a) Technical correction. — Paragraph (6) of section 455(b) of the Higher Education Act of 1965 (20 U.S.C. 1087e(b)), as redesignated by section 830(c)(1) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 498) is redesignated as paragraph (6) and inserted after paragraph (7) of that section.

(b) Extension. —

(1) Amendments. —Sections 427A(k), 428(c)(1), 438(b)(2)(I), and 455(b)(6) of such Act (20 U.S.C. 1077a(k), 1078-3(c)(1), 1087c(b)(6)) are each amended by striking "and before July 1, 2003," each place it appears.

(2) Conforming amendments. —

(A) Section 438(b)(2)(I) of such Act is amended by striking the subsection heading and inserting the following: "INTEREST RATES FOR NEW LOANS ON OR AFTER OCTOBER 1, 1996."

(B) Section 438(b)(2)(I) of such Act is amended—

(i) by striking the subparagraph heading and inserting the following: "LOANS DISBURSED ON OR AFTER JANUARY 1, 2004,...";

(ii) in clause (I), by striking "2003," and inserting "2000";

(C) Section 455(b)(6) of such Act is amended—

(i) by striking the paragraph heading and inserting the following: "INTEREST RATE PROVISION FOR NEW LOANS ON OR AFTER OCTOBER 1, 1996."; and

(ii) in subparagraph (D), by striking "1999," and inserting "1999".

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HARKIN. Mr. President, I would like to announce that the Committee on Agriculture, Nutrition, and Forestry will meet on July 12, 2001, in the Senate Conference Room, 178 Dirksen. The purpose of this hearing will be to consider nominations for positions with the United States Department of Agriculture, and to discuss the next Federal farm bill.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. HARKIN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs will hold a hearing entitled "What Is the U.S. Position on Offshore Tax Havens?" The upcoming hearing will examine past and current U.S. efforts to convince offshore tax havens to cooperate with U.S. efforts to reduce tax evasion through the Organization of Economic Cooperation and Development, (OECD), tax haven project in light of U.S. objectives, and the current status of U.S. support for the project, in particular for the core element requiring information exchange.

The hearing will take place on Wednesday, July 18, 2001, at 2 p.m. in room 628 of the Dirksen Senate Office Building. For further information, please contact Linda J. Gustitus of the subcommittee staff at (202) 224-3721.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that the hearing will be scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 17, 2001, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 261, to authorize the design and construction of a temporary education center at the Vietnam Veterans Memorial; S. 386 and H.R. 146, to authorize the Secretary of the Interior to study the suitability and feasibility of designating the Great Falls Historic District in the city of Paterson, New Jersey, as a unit of the National Park System, and for other purposes; S. 513 and H.R. 182, to amend the Wild and Scenic Rivers Act to designate a segment of the Eightmile River in the State of Connecticut for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes; S. 921 and H.R. 1000, to adjust the boundary of the William Howard Taft National Historic Site in the State of Ohio, to authorize an exchange of land in connection with the historic site, and for other purposes; and S. 1097, to authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within
the boundary of the Great Smoky Mountains National Park.

Because of the limited time available for the hearing, 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 Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the committee staff at (202) 224-9863.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 26, 2001, beginning at 2:30 p.m. in room 366 of the Dirksen Senate Office Building, Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 423, to amend the Act entitled “An Act to provide for the establishment of Fort Clatsop National Memorial in the State of Oregon,” and for other purposes;

S. 817, to amend the National Trails System Act to designate the Old Spanish Trail as a National Historic Trail;

S. 941, to revise the boundaries of the Golden Gate National Recreation Area in the State of California, to extend the term of the advisory commission for the recreation area, and for other purposes;

S. 1057, to authorize the addition of lands to Pu`uhonua o Honaunau National Historical Park in the State of Hawaii, and for other purposes;

S. 1105, to provide for the expeditious completion of the acquisition of State of Wyoming lands within the boundaries of Grand Teton National Park, and for other purposes; and

H.R. 640, to adjust the boundaries of Santa Monica Mountains National Recreation Area, and for other purposes.

Because of the limited time available for the hearing, 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 Subcommittee on National Parks, Committee on Energy and Natural Resources, U.S. Senate, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks of the committee staff at (202) 224-9863.

BIPARTISAN PATIENT PROTECTION ACT

On June 29, 2001, the Senate passed S. 1052, as follows:

8. 1052

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 “Bipartisan Patient Protection Act.”

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

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

Sec. 101. Utilization review activities.

Sec. 102. Procedures for initial claims for benefits and prior authorization determinations.

Sec. 103. Internal and external appeals of claims denials.

Sec. 104. Independent external appeals procedures.

Sec. 105. Health care consumer assistance fund.

Subtitle B—Access to Care

Sec. 111. Consumer choice option.

Sec. 112. Choice of health care professional.

Sec. 113. Access to emergency care.

Sec. 114. Timely access to specialists.

Sec. 115. Patient access to obstetrical and gynecological care.

Sec. 116. Access to pediatric care.

Sec. 117. Continuity of care.

Sec. 118. Access to needed prescription drugs.

Sec. 119. Coverage for individuals participating in approved clinical trials.

Sec. 120. Required coverage for minimum hospital stay for mastectomies and lymph node dissections for the treatment of breast cancer and coverage for secondary consultations.

Subtitle C—Access to Information

Sec. 121. Patient access to information.

Sec. 122. Genetic information.

Subtitle D—Protecting the Doctor-Patient Relationship

Sec. 131. Prohibition of interference with certain medical communications.

Sec. 132. Prohibition of discrimination against providers based on license.

Sec. 133. Protection against improper incentive arrangements.

Sec. 134. Payment of claims.

Sec. 135. Protection for patient advocacy.

Subtitle E—Definitions

Sec. 151. Definitions.

Sec. 152. Preemption; State flexibility; construction.

Sec. 153. Exclusions.

Sec. 154. Incorporation into plan or coverage documents.

TITLE II—APPLICATION OF QUALITY CARE STANDARDS TO GROUP HEALTH PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

Sec. 201. Application to group health plans and group health insurance coverage.

Sec. 202. Application to individual health insurance coverage.

Sec. 203. Cooperation between Federal and State authorities.

Sec. 204. Elimination of option of non-Federal governmental plans to be excluded from requirements concerning genetic information.

TITLE III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS

Sec. 301. Application of patient protection standards to Federal health care programs.

TITLE IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974


Sec. 402. Availability of civil remedies.

Sec. 403. Limitation on certain class action litigation.

Sec. 404. Limitations on actions.

Sec. 405. Cooperation between Federal and State authorities.

Sec. 406. Sense of the Senate concerning the importance of certain unpaid services.

TITLE V—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

Sec. 501. Effective dates.

Sec. 502. Coordination in implementation.

Sec. 503. Severability.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. No impact on Social Security Trust Fund.

Sec. 602. Customs user fees.

Sec. 603. Fiscal year 2002 medicare payments.

Sec. 604. Sense of Senate with respect to participation in clinical trials and access to specialty care.

Sec. 605. Sense of the Senate regarding fair review process.

Sec. 606. Annual review.

Sec. 607. Definition of born-alive infant.

TITLE I—IMPROVING MANAGED CARE

Subtitle A—Utilization Review; Claims; and Internal and External Appeals

Sec. 101. Utilization review activities.

(a) Compliance With Requirements.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in accordance with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section and section 102.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the term “utilization review” and “utilization review activities” mean procedures used to monitor or evaluate the use or coverage, clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed with input from a range of appropriate actively practicing health care professionals,
as determined by the plan, pursuant to the program. Such criteria shall include written clinical review criteria that are based on valid clinical evidence where available and that are designed to meet the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pregnancy-specific criteria where available and appropriate.

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been preauthorized or approved for a participant, beneficiary, or enrollee under such a program, the program shall not remove the obligation of the plan or issuer to make a decision in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the request for prior authorization and in no case later than 36 days after the date of the claim for benefits is received.

(2) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial of a claim for benefits shall be provided in printed form and written in a manner calculated to assure that the notification includes all contents required by this subsection. Written notice shall be given to the participant, beneficiary, or enrollee at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in paragraph (A) or (B) of subsection (b) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such a determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date on which the request is received by the plan or issuer under this subparagraph.

(C) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial of a claim for benefits shall be provided in printed form and written in a manner calculated to assure that the notification includes all contents required by this subsection. Written notice shall be given to the participant, beneficiary, or enrollee at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in paragraph (A) or (B) of subsection (b) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such a determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date on which the request is received by the plan or issuer under this subparagraph.

(2) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial of a claim for benefits shall be provided in printed form and written in a manner calculated to assure that the notification includes all contents required by this subsection. Written notice shall be given to the participant, beneficiary, or enrollee at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in paragraph (A) or (B) of subsection (b) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such a determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date on which the request is received by the plan or issuer under this subparagraph.

(C) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial of a claim for benefits shall be provided in printed form and written in a manner calculated to assure that the notification includes all contents required by this subsection. Written notice shall be given to the participant, beneficiary, or enrollee at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in paragraph (A) or (B) of subsection (b) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such a determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date on which the request is received by the plan or issuer under this subparagraph.

(2) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial of a claim for benefits shall be provided in printed form and written in a manner calculated to assure that the notification includes all contents required by this subsection. Written notice shall be given to the participant, beneficiary, or enrollee at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in paragraph (A) or (B) of subsection (b) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such a determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date on which the request is received by the plan or issuer under this subparagraph.

(C) NOTICE OF A DENIAL OF A CLAIM FOR BENEFITS.—Written notice of a denial of a claim for benefits shall be provided in printed form and written in a manner calculated to assure that the notification includes all contents required by this subsection. Written notice shall be given to the participant, beneficiary, or enrollee at any time during the process for making a determination and a health care professional certifies, with the request, that a determination under the procedures described in paragraph (A) or (B) of subsection (b) would seriously jeopardize the life or health of the participant, beneficiary, or enrollee or the ability of the participant, beneficiary, or enrollee to maintain or regain maximum function. Such a determination shall be made in accordance with the medical exigencies of the case and as soon as possible, but in no case later than 14 days after the date on which the request is received by the plan or issuer under this subparagraph.
initiate an appeal in accordance with section 103.

(e) Definitions.—For purposes of this part:

(1) AUTHORIZED REPRESENTATIVE.—The term ‘‘authorized representative’’ means—

(A) a person who is designated in writing by a participant, beneficiary, or enrollee as being responsible for representing the participant, beneficiary, or enrollee in an appeal under this part, or

(B) a health care professional who is designated in writing by the participant, beneficiary, or enrollee as being responsible for representing the participant, beneficiary, or enrollee in an appeal under this part.

(2) PLAN.—The term ‘‘plan’’ means—

(A) a group health plan, or

(B) an individual health insurance policy, or

(C) a health insurance issuer offering health insurance coverage.

(3) NOTICE.—The term ‘‘notice’’ means—

(A) a written notice provided to an individual under this part, or

(B) a notice specified in an applicable law, regulation, or policy.

(4) EFFECTIVE DATE.—The term ‘‘effective date’’ means—

(A) the date of adoption of the plan, or

(B) any date specified in the plan.

(5) WAIVER.—The term ‘‘waiver’’ includes—

(A) the terms of any applicable law, regulation, or policy, and

(B) any terms of a plan.

(6) APPEAL.—The term ‘‘appeal’’ includes—

(A) an internal review under section 104 or otherwise,

(B) an external review under section 104 or otherwise,

(C) an expedited determination, or

(D) a determination made under an internal appeal under section 103.

(7) NOTICE OF TERMINATION.—The term ‘‘notice of termination’’ means—

(A) a written notice provided to an individual under this part, or

(B) a notice specified in an applicable law, regulation, or policy.

(8) DETERMINATION.—The term ‘‘determination’’ means—

(A) a decision by the plan or issuer under this section.

(9) APPLICATION.—The term ‘‘application’’ means—

(A) a request for an appeal under this part, or

(B) a request for another determination under this part.

(10) NOTICE.—The term ‘‘notice’’ includes—

(A) a written notice provided to an individual under this part, or

(B) a notice specified in an applicable law, regulation, or policy.

(11) DETERMINATION.—The term ‘‘determination’’ includes—

(A) a decision by the plan or issuer under this section.

(12) NOTICE.—The term ‘‘notice’’ includes—

(A) a written notice provided to an individual under this part, or

(B) a notice specified in an applicable law, regulation, or policy.

(13) APPEAL.—The term ‘‘appeal’’ includes—

(A) an internal review under section 104 or otherwise,

(B) an external review under section 104 or otherwise,

(C) an expedited determination, or

(D) a determination made under an internal appeal under section 103.

(14) NOTICE OF TERMINATION.—The term ‘‘notice of termination’’ includes—

(A) a written notice provided to an individual under this part, or

(B) a notice specified in an applicable law, regulation, or policy.

(15) DETERMINATION.—The term ‘‘determination’’ includes—

(A) a decision by the plan or issuer under this section.

(16) NOTICE.—The term ‘‘notice’’ includes—

(A) a written notice provided to an individual under this part, or

(B) a notice specified in an applicable law, regulation, or policy.

SEC. 103. INTERNAL APPEALS OF CLAIMS DENIALS.

(a) Right to Internal Appeal.—

(1) IN GENERAL.—A participant, beneficiary, or enrollee (or authorized representative) may appeal any denial of a claim for benefits under section 102 under the procedures described in this section.

(2) TIME FOR APPEAL.—In the case of an appeal under subparagraph (A), the date of the denial shall be no case later than 60 days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal.

(b) Timelines for Making Determinations.—

(1) IN GENERAL.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 104 to be completed before the date 60 days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal.

(2) RETROSPECTIVE DETERMINATION.—A group health plan, or health insurance issuer offering health insurance coverage, shall make a retrospective determination on an appeal of a denial of a claim for benefits for purposes of proceeding to external review under section 104 not later than 60 days after the date on which the plan or issuer receives information that is reasonably necessary to enable the plan or issuer to make a determination on the appeal.

(c) Conduct of Review.—

(1) IN GENERAL.—If the plan or issuer determines that the determination described in paragraph (1) is made in a manner calculated to be understood by the participant, beneficiary, or enrollee, it shall include—

(A) a statement of the reason for the determination,

(B) a description of the plan or issuer’s appeal procedures, and

(C) the date by which the plan or issuer will make a final determination.

(2) NOTICE.—The plan or issuer shall provide the participant, beneficiary, or enrollee with a copy of the notice described in paragraph (1).

(3) WAIVER.—The plan or issuer may, at the option of the participant, beneficiary, or enrollee (or authorized representative) in writing, request such appeal orally.

(4) PLAN WAIVER OF INTERNAL REVIEW.—A group health plan, or health insurance issuer offering health insurance coverage, may waive any appeal or determination required under this section by telephone and in printed form to the individual or the individual’s designee and the individual’s health care professional if such waiver is determined to be in the best interests of the individual or otherwise to improve the efficiency or effectiveness of the plan or issuer in performing such appeal or determination.

(d) Notice of Determination.—

(1) IN GENERAL.—The notice of the determination on the appeal under this section by telephone and in printed form to the individual or the individual’s designee and the individual’s health care professional shall include—

(A) the specific reasons for the determination (including a summary of the clinical or
whether and when a written confirmation of the making at that time of a request for confirmation shall be treated as a consent provided by the plan or issuer. Such written confirmation of such request in a timely manner on a form health insurance issuer offering health insurance coverage, shall provide in accordance with this section participants (and enrollees (or authorized representatives) with access to an independent external review for any denial of a claim for benefits.

(b) INITIATION OF THE INDEPENDENT EXTERNAL REVIEW PROCESS.—

(1) TIME TO FILE.—A request for an independent external review under this section shall be filed with the plan or issuer not later than 180 days after the date on which the participant, beneficiary, or enrollee receives notice of the denial under section 103(d) or notice of waiver of internal review under section 103(a)(4) or the date on which the plan or issuer has failed to make a timely decision and that the beneficiary must file an appeal with an external review entity within 180 days if the participant or beneficiary desires to file such an appeal.

(2) FILING OF REQUEST.—

(A) IN GENERAL.—Subject to the succeeding provisions of this subsection, a group health plan, and a health insurance issuer offering health insurance coverage, may (i) except as provided in subparagraph (B)(ii), require that a request for review be in writing;

(ii) fail the filing of such a request to the participant, beneficiary, or enrollee involved (or an authorized representative);

(iii) except if waived by the plan or issuer under section 108(a)(4), condition access to an independent external review under this section upon a final determination of a denial of a claim for benefits under the internal review process.

(iv) except as provided in subparagraph (B)(ii), require payment of a filing fee to the plan or issuer of a sum that does not exceed $25;

(v) require that a request for review include the consent of the participant, beneficiary, or enrollee (or authorized representative) of the need for necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting its review activities.

(B) REQUIREMENTS AND EXCLUSION RELATING TO GENERAL RULE.—

(i) ORAL REQUESTS PERMITTED IN EXPEDITED OR CONCURRENT CASES.—In the case of an expedited or concurrent external review as provided for under subsection (e), the request may be made orally. A group health plan, or health insurance issuer offering health insurance coverage, may, for purposes of necessary medical information or records of the participant, beneficiary, or enrollee to the qualified external review entity only for purposes of conducting its review activities.

(ii) EXCEPTION TO FILING FEE REQUIREMENT.—

(I) IN GENERAL.—Payment of a filing fee shall not be required under subparagraph (A)(iv) where there is a certification (in a form and manner specified in guidelines established by the appropriate Secretary) that the participant, beneficiary, or enrollee is indigent (as defined under subparagraph (A)(ii)).

(II) FEE NOT REQUIRED.—Payment of a filing fee shall not be required under subparagraph (A)(iv) if the plan or issuer waives the filing fee not later than 60 days if the participant or beneficiary desires to file such an appeal.

(II) REQUIRED.—A request for review under paragraph (2), the qualified external review entity shall provide notice in accordance with subpart (C), of a determination that is necessary to conduct a review under this section, as determined and requested by the entity. Such information shall be provided not later than 5 days after the date on which the request for information is received, or, in a case described in clause (i) (or (ii) of subsection (e)(1)(A), by such additional time as may be necessary to comply with the applicable timeline under such clause.

(3) SCREENING OF REQUESTS BY QUALIFIED EXTERNAL REVIEW ENTITIES.—

(A) IN GENERAL.—With respect to a request referred to a qualified external review entity under paragraph (1) relating to a denial of a claim for benefits under a group health plan, or health insurance issuer offering health insurance coverage, the entity shall refer the denial involved to an independent medical review conducted by another entity, if the denial was initially determined by an entity that is not a group health plan, or health insurance issuer offering health insurance coverage, and if required the independent medical reviewer shall make a determination within the overall timeline that is applicable to the request in the manner described in section 103(d). With respect to a request described in subsection (e), except that if the entity determines that a referral to an independent medical reviewer is not required, the entity shall provide notice of such determination to the participant, beneficiary, or enrollee (or authorized representative) within such timeline and within 2 days of the date of such determination.

(B) REQUIREMENTS FOR EXTERNAL REVIEW ENTITIES.—

(i) A determination that the item or service is not covered under a group health plan, or health insurance issuer offering health insurance coverage, is a denial described in subsection (d)(2).

(ii) A determination that the item or service is not covered based on grounds that require an evaluation of the medical facts by a health care professional is a denial described in subsection (d)(2).

(iii) A determination that the item or service is not covered because it is not medically necessary and appropriate is a denial described in subsection (d)(2).

(iv) A determination that the item or service is not covered because it is not experimental or investigational is a denial described in subsection (d)(2).

(v) A determination that a claim for benefits is eligible for experimental or investigational treatment under a group health plan, or health insurance issuer offering health insurance coverage, is a denial described in subsection (d)(2).
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care professional in the specific case involved to determine the coverage and extent of coverage of the item or service or condition.

3. INDEPENDENT MEDICAL REVIEW DETERMINATION.—

(A) IN GENERAL.—An independent medical reviewer under this section shall make a new independent determination with respect to whether or not the denial of a claim for a benefit that is the subject of the review should be upheld, reversed, or modified. If a claim is under this paragraph (A), the determination by such a practitioner shall be based on the medical condition of the participant, beneficiary, or enrollee (including the medical records of the participant, beneficiary, or enrollee) and valid, relevant scientific evidence and clinical evidence, including peer-reviewed medical literature or findings and including expert opinion.

(C) NO COVERAGE FOR EXCLUDED BENEFITS.—Nothing in this subsection shall be construed as preventing an entity or reviewer from providing the plan or issuer with any information or guidance that the terms (as part of) the determination and shall not be binding on the plan or issuer.

(G) NONBINDING NATURE OF ADDITIONAL RECOMMENDATIONS.—In addition to the determinations under subsection (e), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include:

(i) the basis of the reviewer;

(ii) the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific evidence used in making the determination; and

(iii) with respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer must comply with such determination.

(F) DETERMINATION OF INDEPENDENT MEDICAL REVIEWER.—An independent medical review shall, in accordance with the dead-

(G) APPLICATION OF DETERMINATIONS.—Nothing in this subsection shall be construed as preventing an entity or reviewer from providing the plan or issuer with any information or guidance that the terms (as part of) the determination and shall not be binding on the plan or issuer.

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(i) the basis of the reviewer;

(ii) the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific evidence used in making the determination; and

(iii) with respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer must comply with such determination.

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1. INDEPENDENT MEDICAL REVIEW DETERMINATION.—

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(G) NONBINDING NATURE OF ADDITIONAL RECOMMENDATIONS.—In addition to the determinations under subsection (e), prepare a written determination to uphold, reverse, or modify the denial under review. Such written determination shall include:

(i) the basis of the reviewer;

(ii) the specific reasons of the reviewer for such determination, including a summary of the clinical or scientific evidence used in making the determination; and

(iii) with respect to a determination to reverse or modify the denial under review, a timeframe within which the plan or issuer must comply with such determination.

(F) DETERMINATION OF INDEPENDENT MEDICAL REVIEWER.—An independent medical review shall, in accordance with the dead-
(A) MONETARY PENALTIES.—

(i) In general.—In any case in which the determination of an external review entity is not followed by a group health plan, or by a health insurance issuer offering health insurance coverage, any person who, acting in the capacity of authorizing the benefit, causes such refusal may, in the discretion of a court of competent jurisdiction, be liable to a

(ii) for a civil penalty in an amount of up to $1,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(B) CHARGE AND DETERMINE ORDER AND ORDER OF ATTORNEY’S FEES.—In any action described in subparagraph (A), if any person prevails with respect to a plan or an issuer by the external review entity until the date the refusal to provide the benefit is corrected.

(ii) ADDITIONAL PENALTY FOR FAILING TO FOLLOW TIMELINE.—In any case in which treatment was not commenced by the plan in accordance with the determination of an independent external review entity, the Secretary shall assess a civil penalty of $10,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(C) ADDITIONAL CIVIL PENALTIES.—

(i) IN GENERAL.—In addition to any penalty imposed under subparagraph (A) or (B), the appropriate Secretary may assess a civil penalty against a person acting in the capacity of authorizing a benefit determined by an external review entity for one or more group health plans, or health insurance issuers offering health insurance coverage, for—

(ii) for a civil penalty in an amount of up to $1,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(D) REMOVAL AND DISQUALIFICATION.—

(1) IN GENERAL.—Subject to subparagraph (B), each independent medical reviewer in a case shall—

(ii) not have a material familial, financial, or professional relationship with such a party; and

(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit an individual, solely on the basis of affiliation with the plan or issuer, from serving as an independent medical reviewer if—

(ii) the affiliated individual is not reasonably available;

(iii) the affiliated individual is not involved in the provision of items or services in the case under review;

(iv) the fact of such an affiliation is disclosed to the plan or issuer and the participant, beneficiary, or enrollee (or authorized representative) and neither party objects; and

(v) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(ii) for auditing a sample of decisions by an independent medical reviewer from an entity that is included in the items or services involved in the denial.

(C) QUALIFICATIONS OF INDEPENDENT MEDICAL REVIEWERS.—

(1) IN GENERAL.—In referring a referral to 1 or more independent medical reviewers, the requirements described in paragraphs (4) and (5); and

(C) compensation provided by the entity to the reviewer is consistent with paragraph (b). (2) LICENSURE AND EXPERIENCE.—Each independent medical reviewer shall be a physician (allopathic or osteopathic) or health care professional who—

(i) is appropriately credentialed or licensed in 1 or more States to deliver health care services; and

(ii) typically treats the condition, makes the diagnosis, or provides the type of treatment under review.

(3) INDEPENDENCE.—(A) Subject to subparagraph (B), each independent medical reviewer in a case shall—

(ii) not have a material familial, financial, or professional relationship with such a party; and

(iii) not otherwise have a conflict of interest with such a party (as determined under regulations).

(B) EXCEPTION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit an independent medical reviewer from an entity to serve as an independent medical reviewer if—

(ii) the affiliated individual is not reasonably available;

(iii) the affiliated individual is not involved in the provision of items or services in the case under review;

(iv) the fact of such an affiliation is disclosed to the plan or issuer and neither party objects; and

(v) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(ii) for auditing a sample of decisions by an independent medical reviewer from an entity that is included in the items or services involved in the denial.

(D) PEDIATRIC EXPERTISE.—In the case of an external review entity relating to a child, a reviewer shall have expertise under paragraph (2) in pediatrics.

(E) LIMITATIONS ON REVIEWER COMPENSATION.—Compensation provided by a qualified external review entity to an independent medical reviewer in connection with a review under this section shall—

(i) be in an amount not to exceed the lesser of 25 percent of the aggregate value of benefits who has engaged in any such pattern or practice and shall—

(ii) be in an amount not to exceed the lesser of 25 percent of the aggregate value of benefits who has engaged in any such pattern or practice and shall—

(iii) be assessed a civil penalty of $10,000 against the health insurance issuer offering health insurance coverage, for

(iv) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(v) the fact of such an affiliation is disclosed to the plan or issuer and neither party objects; and

(vi) the affiliated individual is not an employee of the plan or issuer and does not provide services exclusively or primarily to or on behalf of the plan or issuer;

(vii) for auditing a sample of decisions by the reviewer for a civil penalty in an amount of up to $1,000 against the plan and the plan shall pay such penalty to the participant, beneficiary, or enrollee involved.

(V) Nothing in subparagraph (A) shall be construed to—

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(Z) Nothing in subparagraph (A) shall be construed to—

(A) LIMITATION ON PLAN OR ISSUER SELECTION.—The appropriate Secretary shall implement procedures—

(i) to assure that the selection process among qualified external review entities will not create any incentives for external review entities to make a decision in a biased manner; and

(ii) for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(B) STATE AUTHORITY WITH RESPECT TO QUALIFIED EXTERNAL REVIEW ENTITIES FOR HEALTH INSURANCE ISSUERS.—With respect to health insurance issuers offering health insurance coverage in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that

(C) compensation provided by the entity to the reviewer is consistent with paragraph (b).
is selected by the State in a manner determined by the State to assure an unbiased determination.

(2) CONTRACT WITH QUALIFIED EXTERNAL REVIEW ENTITY.—Except as provided in paragraph (1), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and a qualified external review entity (as defined in paragraph (4)(A)).

(3) TERMS AND CONDITIONS OF CONTRACT.—The terms and conditions of a contract under paragraph (2) shall:

(A) be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external review activities; and

(B) provide that the costs of the external review process shall be borne by the plan or issuer.

Subparagraph (B) shall not be construed as applying to the imposition of a filing fee under subsection (b)(2)(A)(IV) or costs incurred by the participant, beneficiary, or enrollee (or authorized representative) or treating health care professional (if any) in support of the review, including the provision of additional evidence or information.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—In this section, the term "quality external review entity" means an entity that meets at least the standards required for independent medical review that ensure that a qualified external review entity under this section, including the following requirements:

(i) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

(ii) The entity is not a plan or issuer or an affiliate of a plan or issuer, and is not an affiliate or subsidiary of a professional or trade association of plans or issuers or of health care providers.

(iii) The entity has provided assurances that it will conduct external review activities consistent with the applicable requirements of this section and standards specified in subsection (b)(2)(A), including that it will not conduct any external review activities in a case unless the independence requirements of subparagraph (B) are met with respect to the case.

(iv) The entity has provided assurances that it will provide information in a timely manner under subparagraph (C) as meeting the following requirements:

(I) The entity has (directly or through contracts or other arrangements) sufficient medical, legal, and other expertise and sufficient staffing to carry out duties of a qualified external review entity under this section on a timely basis, including making determinations under subsection (b)(2)(A) and providing for independent medical reviews under subsection (d).

(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers it refers cases to).

(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

(IV) Compliance with applicable independence requirements.

(V) Compliance with the requirement of subsection (d)(1) that only medically reviewable decisions shall be the subject of independent medical review and with the requirement of subsection (d)(2)(B) that independent medical reviewers may not require coverage for specifically excluded benefits.

(VI) Period of certification or recertification.

(B) INDEPENDENCE REQUIREMENTS.—Except as provided in paragraph (1), the external review process of a plan or issuer under this section shall be conducted under a contract between the plan or issuer and a qualified external review entity (as defined in paragraph (4)(A)).

(1) IN GENERAL.—The initial certification and recertification of a qualified external review entity shall be made—

(I) under regulations that are recognized or approved by the appropriate Secretary; or

(ii) by a qualified private standard-setting organization that is approved by the appropriate Secretary.

In taking action under subparagraph (I), the appropriate Secretary shall give deference to entities that are under contract with the Federal Government or with an applicable State authority to perform functions of the type performed by qualified external review entities.

(II) PROCESS.—The appropriate Secretary shall not recognize or approve a process under clause (i)(I) unless the process applies standards (as promulgated in regulations) that ensure that a qualified external review entity—

(I) will carry out (and has carried out, in the case of recertification) the responsibilities of such an entity in accordance with this section, including meeting applicable deadlines;

(II) will meet (and has met, in the case of recertification) appropriate indicators of fiscal integrity;

(III) will maintain (and has maintained, in the case of recertification) appropriate confidentiality with respect to individually identifiable health information obtained in the course of conducting external review activities; and

(IV) in the case of recertification, shall review the matters described in clause (iv).

(III) APPROVAL OF QUALIFIED PRIVATE STANDARD-SETTING ORGANIZATIONS.—For purposes of clause (i)(II), the appropriate Secretary may approve a qualified private standard-setting organization if such Secretary finds that the organization only certifies entities that meet at least the standards required for the certification (or recertification) of external review entities under clause (ii).

(IV) CONSIDERATIONS IN RECERTIFICATIONS.—In conducting recertifications of a qualified external review entity under this paragraph, the appropriate Secretary or organization conducting the recertification shall review compliance of the entity with the requirements for conducting external review activities under this section, including the following:

(I) Provision of information under subparagraph (D).

(II) Adherence to applicable deadlines (both by the entity and by independent medical reviewers it refers cases to).

(III) Compliance with limitations on compensation (with respect to both the entity and independent medical reviewers it refers cases to).

(IV) Compliance with applicable independence requirements.

(V) Use of information provided under this paragraph may be used by the appropriate Secretary and qualified private standard-setting organizations to conduct oversight of external review entities, including certification of entities, and shall be made available to the public in an appropriate manner.

(VI) ESTABLISHMENT OF CERTIFICATION OR RECERTIFICATION CRITERIA.—The appropriate Secretary shall establish or recertify a qualified external review entity having a contract with a plan or issuer, and no person who is
employed by any such entity or who furnishes professional services to such entity (including as an independent medical reviewer), shall be held by reason of the performance of duty, function, or activity required or authorized pursuant to this section, to be civilly liable under any law of the United States or of any State (or political subdivision thereof) if there was malice or gross misconduct in the performance of such duty, function, or activity.

(5) REPORT.—Not later than 12 months after the date of enactment of this Act, and annually thereafter, the Secretary shall report to the Committee on Appropriations of Congress a report concerning—

(A) the information that is provided under paragraph (3)(D);

(B) the number of denials that have been upheld by independent medical reviewers and the number of denials that have been reversed by such reviewers; and

(C) the extent to which independent medical reviewers are requiring coverage for benefits that are specifically excluded under the plan or coverage.

SEC. 105. HEALTH CARE CONSUMER ASSISTANCE FUND.

(a) GRANTS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall establish a fund, to be known as the “Health Care Consumer Assistance Fund”, to be used to provide grants to eligible States to carry out consumer assistance activities (including programs established by States prior to the enactment of this Act) designed to provide in-person, telephone, and electronic information, assistance, and referrals to consumers of health insurance products.

(2) STATE ELIGIBILITY.—To be eligible to receive a grant under this subsection, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(A) the manner in which the State will ensure that the health care consumer assistance office (established under paragraph (4)) will educate and assist health care consumers in accessing needed care;

(B) the manner in which the State will coordinate and distinguish the services provided by the health care consumer assistance office with the services provided by Federal, State, and local health-related ombudsman information, protection and advocacy, insurance, and fraud and abuse programs;

(C) the manner in which the State will provide outreach, education, and services to underserved, minority populations with limited English proficiency and populations residing in rural areas;

(D) the manner in which the State will oversee the health care consumer assistance office, its activities, product materials and evaluate program effectiveness;

(E) the manner in which the State will ensure that funds made available under this section will be used to supplement, and not supplant, any other Federal, State, or local funds expended to provide services for programs described under this section and those described in subparagraphs (C) and (D);

(F) the manner in which the State will ensure that funds made available under this section will be used to supplement, and not supplant, any other Federal, State, or local funds expended to provide services for programs described under this section and those described in subparagraphs (C) and (D);

(G) the manner in which the State will ensure that consumers have direct access to consumer assistance personnel during regular business hours.

(3) AMOUNT OF GRANT.—

(A) IN GENERAL.—From amounts appropriated under subsection (b) for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a group health care plan or the State Medicaid program within the State covered under a group health insurance coverage offered by a health insurance issuer bears to the total number of individuals so covered in all States (as determined by the Secretary) during such fiscal year.

(B) FUNDING, ACTIVITIES, AND RESPONSIBILITIES OF STATE.—No State shall receive a grant under this subsection if the State does not establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(C) CONTRACT ENTITY.—With respect to a State that, through contract, establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(4) PROVISION OF FUNDS FOR ESTABLISHMENT OF OFFICE.—

(A) IN GENERAL.—From amounts provided under a grant under this section, a State shall, directly or through a contract with an independent, nonprofit entity, establish an office to carry out the functions provided for in paragraphs (3)(A), (B), and (C). The Secretary shall require the establishment and operation of a State health care consumer assistance office.

(B) ELIGIBILITY OF ENTITY.—To be eligible to receive a grant under this section, an entity shall—

(1) have demonstrated experience in serving the needs of health care consumers;

(2) have legal authority to contract with health care consumer assistance office of a State of such State.

(C) NON-FEDERAL CONTRIBUTIONS.—A State office shall also provide non-Federal contributions towards the funding of the office in an amount that is not less than 25 percent of the amount of Federal funds provided to the State under this section.

(D) USE OF FUNDS.—

(1) BY STATE.—A State shall use amounts provided under a grant under this section to—

(A) carry out the activities described in subparagraph (A), (B), and (C);

(B) develop and maintain an aggregate database of health care and the rights and responsibilities of health care consumers;

(C) provide consumer assistance activities, and make available educational and informational materials to health care consumers, providers, and governmental agencies;

(D) establish and implement procedures and protocols, consistent with applicable Federal and State laws, to ensure that no such information is used by the office, or released or disclosed to State agencies or outside persons or entities without the prior written authorization of the office.

(E) CREATE POLICIES AND PROCEDURES.—To the extent that the office is required or authorized pursuant to this section to carry out consumer assistance activities under this section, the office shall ensure that the information that is provided under this section shall be used to provide information, referrals, and services regarding the consumer assistance services described under this section to health care consumers, providers, and governmental agencies.

(b) USE OF FUNDS.

(1) BY STATE.—A State shall use amounts provided under a grant awarded under this section to carry out consumer assistance activities, and make available educational and informational materials to health care consumers, providers, and governmental agencies.

(2) CONFIDENTIALITY AND ACCESS TO INFORMATION.—

(A) STATE ENTITY.—With respect to a State that directly establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(B) CONTRACT ENTITY.—With respect to a State that, through contract, establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(3) CONFIDENTIALITY AND ACCESS TO INFORMATION.—

(A) STATE ENTITY.—With respect to a State that directly establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(B) CONTRACT ENTITY.—With respect to a State that, through contract, establishes a health care consumer assistance office, such office shall establish and implement procedures and protocols in accordance with applicable Federal and State laws.

(4) AVAILABILITY OF SERVICES.—The health care consumer assistance office of a State shall not discriminate in the provision of information, referrals, and services regardless of the source of the individual’s health insurance coverage or prospective coverage, including individuals covered under a group health plan or health insurance coverage offered by a health insurance issuer, the Medicare or Medicaid programs under title XVIII or title XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or another Federal or State health care program.

(5) DESIGNATION OF RESPONSIBILITIES.—

(A) WITHIN EXISTING STATE ENTITY.—If the health care consumer assistance office of a State is located within an existing State regulatory agency or office of an elected State official, the State shall designate the—

(i) there is a separate delineation of the funding, activities, and responsibilities of the office as compared to the other funding, activities, and responsibilities of the agency; and

(ii) the office establishes and implements procedures and protocols to ensure the confidentiality of all information shared by a participant, beneficiary, enrollee or their personal representative and their health care providers, group health plans, or health insurance issuers with the office and to ensure that no information is disclosed to the State agency or office without the written authorization of the individual or their personal representative in accordance with paragraph (2).

(B) CONTRACT ENTITY.—In the case of an entity that enters into a contract with a State in connection with a grant, the contract shall provide assurances that the entity has no conflict of interest in carrying out the activities of the office and that the entity is independent of health care providers, group health plans, health insurance issuers, providers, and governmental agencies.

(6) REVIEW OF GRANTS.—The Secretary shall review grants made to States and shall prioritize such review in the case of any State that has not accepted a grant made to it.
(5) Subcontracts.—The health care consumer assistance office of a State may carry out activities and provide services through contracts entered into with 1 or more nonprofit entities as the office determines will demonstrate that all of the requirements of this section are complied with by the office.

(6) Term.—A contract entered into under this section shall be in effect for a term of 3 years.

(7) Report.—Not later than 1 year after the Secretary first awards grants under this section, and annually thereafter, the Secretary shall prepare and submit to the appropriate committees of Congress a report concerning the activities funded under this section and the effectiveness of such activities in resolving health care-related problems and grievances.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Access to Care

SEC. 111. CONSUMER CHOICE OPTION.

(a) In General.—(1) a health insurance provider issuing health insurance coverage in connection with a group health plan offers to enrollees health insurance coverage which provides for coverage of services furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the issuer to provide such services, or

(2) a group health plan offers to participants health benefits which provide for coverage of services only if such services are furnished through health care professionals and providers who are members of a network of health care professionals and providers who have entered into a contract with the plan to provide such services.

(b) Access.—(1) The amount of any additional premium charged by the health insurance issuer or group health plan for the additional cost of the creation and maintenance of the option described in subsection (a) and the amount of any additional cost sharing imposed under such option shall be borne by the enrollee, participant, or beneficiary unless it is paid by the health plan sponsor or group health plan through agreement with the health insurance issuer.

(2) An enrollee, participant, or beneficiary may change to the offering provided under this section only during a time period determined by the health insurance issuer or group health plan. Such time period shall occur at least annually.

SEC. 112. CHOICE OF HEALTH CARE PROFESSIONAL.

(a) Primary Care.—If a group health plan, or a health insurance issuer that offers health insurance coverage, requires or provides for designation by a participant, beneficiary, or enrollee of a participating primary care provider, then the plan or issuer shall permit each participant, beneficiary, and enrollee to designate any participating primary care provider who is available to accept such individual.

(b) Specialists.—The term ‘‘specialist’’ means, with respect to an emergency medical condition, ‘‘a medical specialty of sufficient severity (including severe pain) such that a prudent layperson, with an average knowledge of health and medical, could reasonably expect that the absence of such specialty care would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.’’

(b) Reimbursement for Maintenance Care and Post-Stabilization Care.—A group health plan, and health insurance coverage offered by a health insurance issuer, must cover maintenance care and post-stabilization care in accordance with the requirements of section 1852(d)(2) of the Social Security Act (42 U.S.C. 1395w-22(d)(2)). Such reimbursement shall be provided in a manner consistent with subsection (a)(1)(C).

(SECTIONS 113. ACCESS TO EMERGENCY CARE.

(a) Coverage of Emergency Services.—(1) In General.—If a group health plan, or health insurance coverage afforded by a health insurance issuer, provides any benefits with respect to ambulance services and emergency services, the plan or issuer shall cover emergency ambulance services (as defined in paragraph (2)(A)) furnished under the plan or coverage under the same terms and conditions under subparagraphs (A) through (D) of subsection (a)(1) under which coverage is provided for emergency services.

(2) Covered Ambulance Services.—For purposes of this subsection, the term ‘‘covered ambulance services’’ means ambulance services (as defined for purposes of section 1861(s)(7) of the Social Security Act) furnished to transport an individual who has an emergency medical condition (as defined in paragraph (2)(A)) for which the individual is likely to require emergency medical treatment at a hospital, or any other emergency care facility, and if the individual is likely to require emergency medical treatment at a hospital, or any other emergency care facility, within a reasonable time for which there is no medical treatment available at any other medical facility.

(3) Access to Emergency Care.—(A) In General.—If a group health plan, or health insurance coverage under the same terms and conditions as under subsection (a)(1), a group health plan or health insurance issuer that offers health insurance coverage which provides for coverage of such services furnished under the plan or coverage pursuant to subsection (a)(1) and a prudent layperson, with an average knowledge of health and medicine, could reasonably expect that the absence of such transport would result in placing the health of the individual in serious jeopardy, serious impairment of bodily function, or serious dysfunction of any bodily organ or part.

(B) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(C) Grants.—The Secretary of Health and Human Services shall make grants to States (or a group of States) to carry out this section.

(4) Suits.—The term ‘‘suit’’ means a suit for the recovery of money damages under this section.

(D) In General.—If a group health plan or health insurance issuer fails to comply with this section, the Secretary shall provide for the recovery of money damages under this section.

(b) Reimbursement for Maintenance Care and Post-Stabilization Care.—A group health plan, and health insurance coverage offered by a health insurance issuer, must cover maintenance care and post-stabilization care in accordance with the requirements of section 1852(d)(2) of the Social Security Act (42 U.S.C. 1395w-22(d)(2)). Such reimbursement shall be provided in a manner consistent with subsection (a)(1)(C).

(SECTIONS 114. TIMELY ACCESS TO SPECIALISTS.

(a) Timely Access.—(1) In General.—A group health plan or health insurance issuer offering health insurance coverage shall ensure that participants, beneficiaries, and enrollees receive timely access to specialists who are appropriate to the condition of, and accessible to, the participant, beneficiary, or enrollee, when such specialty care is a covered benefit under the plan or coverage.

(b) Access to Certain Providers.—(1) In General.—With respect to specialty care under this section, if a participating provider is not available to provide such care to the participant, beneficiary, or enrollee, the plan or issuer shall provide for the coverage of such specialty care by a nonparticipating provider. If a nonparticipating provider agrees to provide such specialty care, the plan or issuer shall otherwise pay for such specialty care if provided by a participating specialist.

(b) Reimbursement.—Subject to subsection (a)(1), a group health plan or health insurance issuer may require an authorization in

(Congressional Record, July 9, 2001)
SEC. 115. PATIENT ACCESS TO OBSTETRICAL AND GYNECOLOGICAL CARE.

(a) General Rights.—(1) Direct Access.—A group health plan, or health insurance issuer offering health insurance coverage, described in subsection (b) may not require authorization or referral by the plan, issuer, or any person (including a primary care provider described in subsection (b)(2)) in the case of a female participant, beneficiary, or enrollee who seeks coverage for obstetrical or gynecological care provided by a participating health care professional who specializes in obstetrics or gynecology.

(b) Specialized Care.—A group health plan, or health insurance issuer offering health insurance coverage, described in subsection (b)(2) on a timely basis of the termination described in paragraph (1) (or paragraph (2), if applicable) and the right to elect continued transitional care from the provider under this section; (B) provide the patient with an opportunity to notify the plan or issuer of the patient’s need for transitional care; and (C) subject to subsection (c), permit the patient to continue to be covered with respect to the course of treatment by such provider under this section (as provided for under subsection (b)).

(c) Continuing Care Patient.—For purposes of this section, the term “continuing care patient” means a participant, beneficiary, or enrollee whose—

(1) the treatment plan for a serious and complex condition from the provider at the time the plan or issuer receives or provides notice of provider, benefit, or coverage termination described in paragraph (1) or (2), if applicable; (B) is undergoing a course of institutional or inpatient care from the provider at the time of such notice; (C) is pregnant and undergoing a course of treatment for the pregnancy from the provider at the time of such notice; or (D) is eligible for Medicare benefits.

SEC. 116. ACCESS TO PEDIATRIC CARE.

(a) General Rights.—(1) In General.—A group health plan or health insurance issuer may require that the specialist be provided prior to a treatment plan, but only if the treatment plan—

(A) is developed by the specialist, in consultation with the case manager or primary care provider, and the participant, beneficiary, or enrollee; and (B) is approved by the plan or issuer in a timely manner, if the plan or issuer requires such approval, and (B) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

(2) Notification.—Nothing in paragraph (1) shall be construed as prohibiting a plan or issuer from requiring the specialist to provide preliminary notification with regular update on the specialty care provided, as well as all other reasonably necessary medical information.

(3) Specialist Defined.—For purposes of this section, the term “specialist” means, with respect to the condition of the participant, beneficiary, or enrollee, a health care professional, facility, or center that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

SEC. 117. CONTINUITY OF CARE.

(a) Termination of Provider.—(1) In General.—If—

(A) a contract between a group health plan, or a health insurance issuer offering health insurance coverage, and a treating health care provider is terminated (as defined in paragraph (2)); or (B) benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in such plan, the plan or issuer shall meet the requirements of paragraph (3) with respect to each continuing care patient.

(b) Treatment of Termination of Contract with Health Insurance Issuer.—If a contract for the provision of health insurance coverage between a group health plan and a health care provider is terminated, and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(c) Requirements.—The requirements of this paragraph are that the plan or issuer—

(A) notify the continuing care patient involved, or arrange to have the patient notified, of the need for transitional care, if any; (B) extend through the provision of post-partum care directly related to the delivery; (C) the period of institutional or inpatient care described in subsection (a)(4)(A) shall extend until the date of completion of reasonable follow-up care; and (D) the period of institutional or inpatient care described in subsection (a)(4)(C) shall extend until the completion of the surgery involved and post-surgical follow-up care relating to the surgery and occurring within 90 days after the date of the surgery.

(4) PREGNANCY.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(A) shall extend through the provision of post-partum care directly related to the delivery.

(5) TERMINAL ILLNESS.—The transitional period under this subsection for a continuing care patient described in subsection (a)(4)(E) shall extend until the completion of the treatment of the terminal illness or its medical manifestations.

(6) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued transitional care from the provider under this section upon the provider agreeing to the following terms and conditions:

(A) the notification described in paragraph (4)(A) shall be provided in writing to the patient or the patient’s representative; (B) the notification described in paragraph (4)(A) shall be provided in writing to the patient or the patient’s representative; and (C) the notification described in paragraph (4)(A) shall be provided in writing to the patient or the patient’s representative;
transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or coverage after the date of the termination of the contract referred to in subsection (a)); or

(d) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to exclude coverage of benefits which would not have been covered if the provider involved remained a participating provider; or

(2) with respect to the termination of a contract under subsection (a) to prevent a group health plan or health insurance issuer from requiring that the health care provider—

(A) notify participants, beneficiaries, or enrollees of their rights under this section; or

(B) provide the plan or issuer with the name of each participant, beneficiary, or enrollee who the provider believes is a continuing care patient.

(e) DEFINITIONS.—In this section:

(1) CONTRACT.—The term ‘contract’ includes, with respect to a plan or issuer and a treating health care provider, a contract between such plan or issuer and an organized network of providers that includes the treating health care provider, and (in the case of such a contract) the contract between the treating health care provider and the organized network.

(2) HEALTH CARE PROVIDER.—The term ‘health care provider’ or ‘provider’ means—

(A) any individual who is engaged in the delivery of health care services in a State and who is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State; and

(B) any entity that is engaged in the delivery of health care services in a State and that, if it is required by State law or regulation to be licensed or certified by the State to engage in the delivery of such services in the State, is so licensed.

(3) COMPLEX CONDITION.—The term ‘serious and complex condition’ means, with respect to a participant, beneficiary, or enrollee under the plan or coverage, the condition described in subsection (a) of this section.

(4) TERMINATED.—The term ‘terminated’ includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include the termination of the contract for failure to meet applicable quality standards or for fraud.

SEC. 118. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—To the extent that a group health plan, or health insurance coverage, provides for coverage of prescription drugs or medical devices that are necessary for the health care of an enrollee under the plan or coverage, the plan or issuer, if—

(1) ensures the participation of physicians and pharmacists in developing and reviewing such formulary; and

(2) provides for disclosure of the formulary to providers; and

(3) in accordance with the applicable quality assurance and utilization review standards of the plan or issuer, provide for exceptions to the formulary that would have applied in the case of a drug covered under the formulary,

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage) shall provide coverage for prescription drugs or medical devices for a participant or beneficiary of the plan or coverage, if the participant or beneficiary—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (1) of section 355 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply under such Act; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 515 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (d) or (3) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(c) PAYMENT.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate; or

(B) the plan or issuer, for items and services provided by the plan or issuer, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under paragraph (1).

SEC. 119. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage, provides coverage for a prescription drug or medical device that is the subject of an approved clinical trial under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act, the group health plan or health insurance coverage shall provide such coverage to a participant or beneficiary of such plan or coverage, if the participant or beneficiary—

(A) is a participant in the trial; and

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual or basis of the enrollee’s participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs shall not include the costs of tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a participant or beneficiary from obtaining individual participation in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term ‘qualified individual’ means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1) the individual has a life-threatening or serious illness for which no standard treatment is effective.

(2) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(3) The individual’s participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(4) Either—

(A) the referring physician is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, who provides medical and scientific information establishing that the individual’s participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(b) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual’s participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—In the case of a group health plan or health insurance coverage, the plan or issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs that are reasonably expected (as determined by the appropriate Secretary) to be paid for by the sponsors of an approved clinical trial.

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term ‘approved clinical trial’ means a clinical research study or clinical investigation—

(A) approved and funded by the National Institutes of Health, the Department of Defense, or the Department of Veterans Affairs; or

(B) approved by the National Institutes of Health; or

(C) approved by the Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through the appropriate peer review system by the appropriate Secretary determines—

(A) that the study or investigation is comparable to the system of peer review of studies and investigations used by the National Institutes of Health; and

(B) is based on unbiased reviews of the highest ethical standards by qualified individuals.
who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan’s or issuer’s coverage with respect to clinical trials.

SEC. 120. REQUIRED COVERAGE FOR MINIMUM HOSPITAL, OUTPATIENT HOSPITAL, AND OUT-OF-NETWORK SERVICES, AND COVERAGE FOR SECONDARY CONSULTATIONS.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer providing health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer below certain limits be provided for a period of time as determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following:

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROMOTION ON CERTAIN MODIFICATIONS.—This section shall take effect—

(A) for a plan or issuer effective on or after the date that is 1 year after the date of the enactment of this section; and

(B) for a plan or issuer effective on or after the date that is 1 year after the date of the enactment of this section with respect to whose services coverage is otherwise provided under such plan or by such issuer for a period of time as determined by the attending physician, in consultation with the patient, to be medically necessary and appropriate following:

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(c) RHYTHM ON CERTAIN MODIFICATIONS.—This section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

SEC. 121. PATIENT ACCESS TO INFORMATION.

(a) REQUIREMENT.—

(1) DISCLOSURE.—(A) IN GENERAL.—A group health plan, and a health insurance issuer that provides coverage in connection with health insurance coverage, shall provide for the disclosure to participants, beneficiaries, and enrollees—

(i) of the information described in subsection (b) at the time of the initial enrollment of the participant, beneficiary, or enrollee under the plan or coverage;

(ii) of such information on an annual basis;

(iii) in conjunction with the election period of the plan or coverage if the plan or coverage has such an election period; or

(iv) in the case of a plan or coverage that does not have an election period, in conjunction with the beginning of the plan or coverage year and

(ii) of information relating to any material reduction in the benefits or information described in such subsection or subsection (c), in the form of a notice provided not later than 30 days before the date on which the reduction takes effect.

(B) PARTICIPANTS, BENEFICIARIES, AND ENROLLEES.—The disclosure required under paragraph (A) shall be—

(i) jointly to each participant, beneficiary, and enrollee who reside at the same address; or

(ii) in the case of a beneficiary or enrollee who does not reside at the same address as the participant or another enrollee, separately to the participant or other enrollees and such beneficiary or enrollee.

(2) PROVISION OF INFORMATION.—Information shall be provided to participants, beneficiaries, and enrollees under this section at the last known address maintained by the plan or issuer with respect to such participant, beneficiary, or enrollee.

(b) REQUIRED INFORMATION.—The information required to be distributed under this section shall include for each option available under the group health plan or health insurance coverage—

(1) BENEFITS.—A description of the covered benefits, including—

(A) any in-network and out-of-network benefits;

(B) specific preventive services covered under the plan or coverage if such services are covered;

(C) any specific exclusions or express limitations of benefits described in section 104A(d)(3)(C);

(D) any other benefit limitations, including any annual or lifetime benefit limits and any monetary limits or limits on the number of visits, days, or services, and any specific coverage exclusions; and

(E) any specific medical necessity used in making coverage determinations by the plan, issuer, or claims administrator.

(2) COST-SHARING.—A description of any cost-sharing requirements, including—

(A) any premiums, deductibles, coinsurance, copayment amounts, and liability for balance billing, for which the participant, beneficiary, or enrollee will be responsible under each option available under the plan;

(B) any maximum out-of-pocket expense for which the participant, beneficiary, or enrollee may be liable;

(C) any cost-sharing requirements for out-of-network benefits or services received from nonparticipating providers; and

(D) any additional cost-sharing or charges for benefits and services that are furnished without meeting applicable plan or coverage requirements or such prior authorization or precertification.

(3) DISENROLLMENT.—Information relating to the disenrollment of a participant, beneficiary, or enrollee.

(4) SERVICE AREA.—A description of the plan or issuer’s service area, including the provision of any out-of-area coverage.

(5) PARTICIPATING PROVIDERS.—A directory of participating providers (to the extent a plan or issuer provides coverage through a network of providers) that includes, at a minimum, the name, address, and telephone number of each participating provider, and information about how to inquire whether a participating provider is currently accepting new patients.

(6) SOURCE OF PRIMARY CARE PROVIDER.—A description of any requirements and procedures to be used by participants, beneficiaries, enrollees, or providers to select a participating provider, including providers both within and outside of the network (if the plan or issuer permits out-of-network services), and the right to select a primary care provider under section 116 for a participant, beneficiary, or enrollee who is a child if such section applies.

(7) PREAUTHORIZATION REQUIREMENTS.—A description of the requirements and procedures to be used by participants, beneficiaries, enrollees, or providers to obtain preregistration for health services if such preauthorization is required.

(8) EXPERIMENTAL AND INVESTIGATIONAL TREATMENTS.—A description of the process for determining whether a particular item, service, or treatment is considered experimental or investigational, and the circumstances under which such treatments are covered by the plan.

(9) SPECIALTY CARE.—A description of the requirements and procedures to be used by participants, beneficiaries, enrollees, and providers to obtain specialty care, including referals to participating and nonparticipating specialists, including any limitations on choice of health care professionals referred for specialty care, and the right of participants, beneficiaries, and enrollees to timely access to specialists care under section 114 if such section applies.

(10) CLINICAL TRIALS.—A description of the circumstances and conditions under which participation in clinical trials is covered under the terms and conditions of the plan or coverage, and the right to obtain coverage for approved clinical trials under section 119 if such section applies.

(11) PRESCRIPTION DRUGS.—To the extent the plan or issuer provides coverage for prescription drugs, a statement of the extent to which such coverage is limited to drugs included in a formulary, a description of any provisions and cost-sharing requirements for obtaining on-formulary and off-formulary drugs, and a description of the rights of participants, beneficiaries, and enrollees in obtaining access to prescription drugs under section 117 if such section applies.

(12) EMERGENCY SERVICES.—A summary of the rules and procedures for accessing emergency services, including the right of a participant, beneficiary, and enrollee to receive emergency services under the prudent layperson standard under section 113, if such
obtaining such information (including tele-
lected in subsection (c), and instructions on
procedures.
ience directives and organ donation deci-
that may derive a benefit and any person or a
f a member of such individual (including
ration of any rights of participants, bene-
te plans or issuers makes public or makes
sion determined by the plan or issuer to
are under a group health plan or health insur-
be combined, so long as such
sion of any rights of participants, bene-
sion of any rights of participants, bene-
and enrollees under subtitle A in obtaining
abled, or inherited character-
s in subparagraphs (A) and (B) of section 1902, for
the purpose of predicting risk of disease in
on the formulary of the
tration is included in the formulary of the
of the plan or issuer makes public or makes
istics, and certain metabo-
he individual or the spouse or child de-
dranilic information concerning an individual
ic period of the individual (including primary care providers

In this section:

(4) GENETIC TEST.—The term “genetic test” means the analysis of DNA, RNA, chromosomes, proteins, and certain metabo-
lites, including analysis of genotypes, phenotypes, or karyotypes, for
the purpose of predicting risk of disease in asymptomatic or undiagnosed individuals. Such term does not include a physical test, such as a chemical, blood, or urine analysis of an individual, including a cholesterol test, or a physical exam of the individual, in order to detect symptoms, clinical signs, or a diagnosis of disease.

(5) GROUP HEALTH PLAN, HEALTH INSURANCE ISSUER.—The terms “group health plan” and “health insurance issuer” include a third party administrator or other person acting for or on behalf of such plan or issuer.

(6) PREDICTIVE GENETIC INFORMATION.—

(a) In general.—The term “predictive genetic information” means—

(b) No enrollment restriction for genetic services.—

section applies, and any educational information that the plan or issuer may provide regarding the appropriate use of emergency services.

(13) CLAIMS AND APPEALS.—A description of the plan or issuer’s rules and procedures per-
taining to claims and appeals, a description of the rights (including deadlines for exer-
cising rights) of participants, beneficiaries, and enrollees under subtitle A in obtaining
covered benefits, filing a claim for benefits, and appealing coverage decisions internally and externally (including telephone numbers and mailing addresses of the appropriate au-
thority), and a description of any additional legal rights and remedies available under
section 502 of the Employee Retirement Income
Security Act of 1974 and applicable State law.

(14) ADVANCE DIRECTIVES AND ORGAN DONA-
tion.—A description of procedures for ad-
vance directives and organ donation deci-
sions if the plan or issuer maintains such
procedures.

(15) INFORMATION ON PLANS AND ISSUERS.—
The name, mailing address, and telephone
number or numbers of the plan admin-
istrator and the issuer to be used by partici-
pants, beneficiaries, and enrollees seeking
information about the plan or coverage
benefits and services, payment of a claim, or authorization for services and treatment. Notice of whether the plan or issuer makes public or makes
aggregate information issued by an issuer, or whether benefits are provided directly by the plan
sponsor who bears the insurance risk.

(16) TRANSLATION SERVICES.—A summary
description of any translation or interpreta-
tion services (including the availability of
printed information in languages other than
English, audio tapes, or information in
Braille) that are available for non-English
speakers and participants, beneficiaries, and
enrollees with communication disabilities
and a description of how to access these
items or services.

(17) ACCREDITATION INFORMATION.—Any in-
formation that is made public by accrediting
organizations in the process of accreditation if the plan or issuer is accredited, or any addi-
tional quality indicators (such as the re-
sults of on-site inspection surveys) that the
plan or issuer makes public or makes
available to participants, beneficiaries, and
enrollees.

(18) FULFILLMENT OF REQUIREMENTS.—A de-
scription of any rights of participants, bene-
ficiaries, and enrollees that are established by the
Bipartisan Patient Protection Act (excluding those described in paragraphs (1) through (17)) if such sections apply. The
description required under this paragraph may
be combined with the notices of the type de-
scribed in sections 711(d), 713(b), or 605(h) of the
Employee Retirement Income Security
Act of 1974 and with any other notice provision that the appropriate Secretary de-
termined, so long as each
such combination does not result in any reduction in the information that would otherwise be provided to the recipient.

(19) ADDITIONAL REQUIREMENTS.—ADDITIONAL INFORMATION.—A statement that the information de-
scribed in subsection (c), and instructions on
obtaining such information (including tele-
phone numbers and, if available, Internet
websites), shall be made available upon re-
quest.

(20) DESIGNATED DECISIONMAKERS.—A de-
scription of participants and benefi-
ciaries with respect to whom each des-
ignated decisionmaker under the plan has
assumed liability under section 502(e) of the Employee Retirement Income Security
Act of 1974 and the name and address of each
such decisionmaker.

(c) ADDITIONAL INFORMATION.—The infor-
mational materials to be provided upon the
request of a participant, beneficiary, or en-
rollee shall include for each option available
under a group health plan or health insur-
ance coverage the following:

(1) STATUS OF PROVIDERS.—The State licens-
ure status of the plan or issuer’s partici-
pants, beneficiaries, and participating
health care facilities, and, if available,
the education, training, specialty qualifications or certifications of such profes-
sionals.

(2) COMPENSATION METHODS.—A summary
description by category of the applicable
methods (such as capitation, fee-for-service,
prospective, or salary) and (or, in the case of a
combination thereof) used for compensating
prospective or treating health care profes-
sionals (including primary care providers
and specialists) and facilities in connection
with the provision of health care under the
plan or coverage.

(3) PRESCRIPTION DRUGS.—Information about
whether a specific prescription medica-
tion is included in the formulary of the
plan or issuer, if the plan or issuer uses a de-
fined formulary.

(4) UTILIZATION REVIEW ACTIVITIES.—A de-
scription of procedures used and require-
ments (including circumstances, timeframes,
and appeals rights) under any utilization re-
view program operated by the plan or issuer,
including any drug formulary program under
section 118.

(5) EXTERNAL APPEALS INFORMATION.—Ag-
gregate information on the number and out-
comes of external medical reviews, relative
to the sample size (such as the number of
covered lives) under the plan or under the
coverage of the plan or issuer.

(d) MANNER OF DISCLOSURE.—The informa-
tion described in this section shall be dis-
closed in an accessible medium and format
to the extent that is reasonably possible to
be understood by a participant or enrollee.

(e) RULES OF CONSTRUCTION.—Nothing in
this section shall be construed to prohibit a
group health plan, or a health insurance issuer in connection with health insurance
coverage, from—

(1) distributing any other additional infor-
mation determined by the plan or issuer to
be important or necessary in assisting par-
ticipants, beneficiaries, and enrollees in the
selection of a health plan or health insurance
coverage;

(2) complying with the provisions of this
section by providing information in bro-
chures, through the Internet or other elec-
tronic media, or through other similar
means, so long as—

A (a) the disclosure of such information in
such form is in accordance with require-
ments as the appropriate Secretary may im-
pose, and

B (b) in connection with any such disclosure
of information through the Internet or other
electronic media, the recipient

A (1) the recipient has affirmatively con-

tested to the disclosure of such information
in such form,

B (ii) the recipient is capable of accessing
the information so disclosed on the recipient’s
individual workstation or at the recipient’s

A (iii) the recipient retains an ongoing right
to receive paper disclosure of such informa-
tion and receives, in advance of any attempt
to disclose at such disclosure of information to him or
her through the Internet or other electronic
media, notice in printed form of such ongo-
ing right and of the proper software required to
view information so disclosed, and

B (iv) the disclosure appropriately ensures that the intended recipient is receiv-
ing the information so disclosed and provides
(or information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(c) Collection of Predictive Genetic Information

(1) Limitation on Requesting or Requiring Predictive Genetic Information.—Except as provided in paragraph (2), a group health plan, or a health insurance issuer offering health insurance coverage, shall not request or require predictive genetic information concerning an individual or a family member of the individual (including information about a request for or the receipt of genetic services by such individual or a family member of such individual).

(2) Information Needed for Diagnosis, Treatment, or Payment.—(A) In General.—Notwithstanding paragraph (1), a group health plan, or a health insurance issuer offering health insurance coverage, that provides health care items and services to an individual or dependent may request (but may not require) that such individual or dependent disclose, or authorize the collection or disclosure of, predictive genetic information for purposes of diagnosis, treatment, or payment relating to the provision of health care items and services to such individual or dependent.

(b) Confidentiality With Respect to Predictive Genetic Information.—(1) A group health plan, or a health insurance issuer offering health insurance coverage, shall provide to the individual or dependent a description of the procedures in place to safeguard the confidentiality, as described in subsection (d), of such predictive genetic information.

(d) Confidentiality With Respect to Predictive Genetic Information.—(1) A group health plan, or a health insurance issuer offering health insurance coverage, shall establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality, accuracy, and integrity of predictive genetic information created, received, obtained, maintained, used, transmitted, or disposed of by such plan or issuer.

(3) Compliance with Certain Standards.—With respect to the establishment and maintenance of such safeguards, the standards promulgated by the Secretary of Health and Human Services—

(A) for title XIX of the Social Security Act (42 U.S.C. 1396d et seq.); or

(B) section 264(c) of Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d-2 et seq.)

(e) Special Rule in Case of Genetic Information.—With respect to health insurance coverage offered by a health insurance issuer, the provisions of this section relating to genetic information (including information about a request for or the receipt of genetic services by an individual or a family member of such individual) shall not be construed to supersede any provision of State law that continues in effect a standard, requirement, or remedy that more completely—

(1) protects the confidentiality of genetic information concerning an information about a request for or the receipt of genetic services by an individual or a family member of such individual) or the privacy of an individual or a family member with respect to genetic information (including information about a request for or the receipt of genetic services by the individual or a family member of such individual); or

(2) prohibits discrimination on the basis of genetic information than does this section.

Subtitle D—Protecting the Doctor-Patient Relationship

SECTION 131. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) General Rule.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including an internal or external organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or otherwise restrict a health care professional from advising such a participant, beneficiary, or enrollee who is a patient of the professional about the health status of the individual or medical care or treatment for the individual’s condition or disease, regardless of whether benefits for such care or treatment are provided to the individual or group health insurance coverage of such individual.

(b) Nullification.—Any contract provision or agreement that restricts or prohibits medical communications in violation of subsection (a) shall be null and void.

SECTION 132. PROHIBITION OF DISCRIMINATION AGAINST PROVIDERS BASED ON LICENSOE.

(a) General Rule.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage of an enrollee who is a patient of the professional, shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of practice of the professional because the professional in good faith—

(1) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer;

(2) is acting within the scope of practice of the professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer;

(B) is acting within the scope of practice of the professional because the professional in good faith—

(c) Construction.—Subsection (a) shall not be construed—

(1) as requiring the coverage under a group health plan or health insurance coverage of a particular provider; or

(2) to prohibit a group health plan or issuer from including providers only to the extent necessary to meet the needs of the plan or issuer’s participants, beneficiaries, enrollees, or any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer;

(2) to overrule any State licensure or scope-of-practice law; or

(3) as requiring a plan or issuer that offers network coverage to include for participation in the network every provider who meets the terms and conditions of the plan or issuer.

SECTION 133. PROHIBITION AGAINST IMPROPER ENCUMBRANCE OF A CONTRACT.

(a) General Rule.—(1) A group health plan and a health insurance issuer offering health insurance coverage may not operate any physical incentive plan (as defined in subsection (c)(2) of the Social Security Act) unless the requirements described in clauses (1), (ii)(I), and (iii)(II) of sub-paragraph (A) of such section are met with respect to such a plan.

(b) Application.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall include an eligible organization, an individual enrolled with the organization, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or issuer.

(c) Construction.—Nothing in this section shall be construed as prohibiting all capitation and similar arrangements or all provider discount arrangements.

SECTION 134. PAYMENT OF CLAIMS.

A group health plan, and a health insurance issuer offering health insurance coverage, shall provide for prompt payment of claims submitted for health care services or supplies furnished to a participant, beneficiary, or enrollee with respect to benefits covered by the plan or issuer, in a manner consistent with the provisions of section 1852(c)(2) of the Social Security Act (42 U.S.C. 1395w-2(c)(2)).

SECTION 135. PROTECTION FOR PATIENT ADVOCACY.

(a) Protection for Use of Utilization Review and Grievance Process.—A group health plan and a health insurance issuer offering health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider (or group of health care providers) regardless of whether benefits for health care services, or conditions affecting one or more participants, beneficiaries, or enrollees are provided to the individual or group health insurance coverage of such individual.

(b) Protection for Quality Advocacy by Health Care Professionals.—(1) In General.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(1) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; and

(2) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more participants within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) Good Faith Action.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith by—the

(A) disclosing the information disclosed as part of the action—

(1) as required by the plan or issuer in relation to care, services, or conditions affecting one or more participants within an institutional health care provider; and

(B) the professional reasonably believes the information to be true;
(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard of care that is not in the best interests of the health plan or contract holder; except that such standards shall not be applied with respect to public health service plans; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable procedures of the health plan, issuer, or institutional health care provider established for the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not apply if the Secretary finds that there is imminent hazard of loss of life or serious injury and that the information disclosed is limited to the scope of the inquiry or proceeding.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an applicable authority if the disclosure fulfills the criteria for an applicable authority if the disclosure fulfills the criteria for an investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider takes the adverse action involved in the same manner as if the provider respecting the provision of such items and services.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided under State law to any employee of the provider that is not a participating health care provider that is not a participating health care professional or employee of the provider that is not a participating health care professional or employee of the provider, of any action taken by the provider that is not a participating health care professional or employee of the provider that is not a participating health care professional or employee of the provider that is not a participating health care professional or employee of the provider, that—

(a) is taken under a provision of section 2791 of the Public Health Service Act or section 116 of the Employee Retirement Income Security Act of 1974; or

(b) is taken under any State law applicable with respect to a group health plan or health insurance coverage offered by a health insurance issuer or group health plan for the provision or coverage of medical services.

(6) CONSTRUCTIONS.—

(A) Determinations of Coverage.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) Peer Review Protocols and Internal Procedures.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) Relation to Other Rights.—Nothing in this subsection shall be construed to affect any rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) Health Care Professional Defined.—For purposes of this subsection, the term “protected health care professional” means an individual who is a licensed or certified health care professional and who—

(a) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer who has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer, and

(b) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider under which the provider is to participate in the provision of health care services.

Subtitle E—Definitions

SEC. 151. DEFINITIONS.

(a) Incorporation of General Definitions.—Except as otherwise provided, the provisions of section 2791 of the Public Health Service Act shall apply for purposes of this title in the same manner as they apply for purposes of title XXVII of such Act.

(b) Secretary.—Except as otherwise provided, the term “Secretary” means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the appropriate Secretary means the Secretary of Health and Human Services in relation to carrying out this title under sections 2706 and 2701 of the Public Health Service Act and the Secretary of Labor in relation to carrying out this title under section 731 of the Employee Retirement Income Security Act of 1974.

(c) Additional Definitions.—For purposes of this title:

(1) Applicable Authority.—The term “applicable authority” means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this title, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act) or, the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2721(a)(2) of the Public Health Service Act.

(2) Enrollment.—The term “enrollment” means, with respect to health insurance coverage offered by a health insurance issuer, an individual enrolled with the issuer to receive such coverage.

(3) Group Health Plan.—The term “group health plan” has the meaning given such term in section 602 of the Employee Retirement Income Security Act of 1974, except that such term includes a welfare benefit plan treated as a group health plan under subsection (a)(1) of such Act or defined as such a plan under section 607(1) of such Act.

(4) Health Care Professional.—The term “health care professional” means an individual who is licensed, accredited, or certified under State law to provide specific health care services and who is operating within the scope of such licensure, accreditation, or certification.

(5) Health Care Provider.—The term “health care provider” includes a physician or other health care professional, as well as an institutional or other facility or agency that provides health care services and that is licensed, accredited, or certified to provide health care items and services under applicable State law.

(6) Network.—The term “network” means, with respect to a group health plan or health insurance issuer offering health insurance coverage, the network of health care professionals and providers through whom the plan or issuer provides health care items and services to participants, beneficiaries, or enrollees.

(7) Nonparticipating.—The term “nonparticipating” means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(8) Participating.—The term “participating” means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is a participating health care provider with respect to such items and services.

(9) Prior Authorization.—The term “prior authorization” means the process of obtaining prior approval from a health insurance issuer or group health plan for the provision or coverage of medical services.

(10) Terms and Conditions.—The term “terms and conditions” includes, with respect to a group health plan or health insurance coverage, requirements imposed under this title with respect to the plan or coverage.

SEC. 152. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION

(a) Continued Applicability of State Law With Respect to Health Insurance Issuers.—

(1) In General.—Subject to paragraph (2), nothing in this title shall be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers (in connection with group health insurance coverage or otherwise) except to the extent that such standard or requirement prevents the application of a requirement of this title.

(2) Continued Preemption With Respect to Group Health Plans.—Nothing in this title shall be construed to affect or modify the provisions of section 114 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(3) Construction.—In applying this section, a State law that provides for equal access to, and availability of, all categories of licensed health care providers and services shall not be treated as preventing the application of any requirement of this title.

(b) Application of Substantially Compliant State Laws.—

(1) In General.—In the case of a State law that imposes, with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan or health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is substantially compliant with a patient protection requirement (as defined in paragraph (3) and does not prevent the application of other requirements under this Act (except in the case of other substantially compliant requirements), in applying the provisions of sections 2706 and 2707(a) as applicable to the Public Health Service Act (as added by title II), subject to subsection (a)—

(A) the State law shall not be treated as being superseded by subsection (a); and

(B) the State law shall apply instead of the applicable requirements otherwise applicable with respect to health insurance coverage and non-Federal governmental plans.

(2) Limitation.—In the case of a group health plan or health insurance issuer offering health insurance coverage, the term “substantially compliant” means a group health plan or health insurance coverage that—

(A) the State law shall not be treated as being superseded by subsection (a); and

(B) the State law shall apply instead of the applicable requirements otherwise applicable with respect to health insurance coverage and non-Federal governmental plans.
(A) PATIENT PROTECTION REQUIREMENT.—

The term “patient protection requirement” means a requirement under this title, and includes (as a single requirement) a group or related requirements under a section or similar unit under this title.

(B) SUBSTANTIALLY COMPLIANT.—The terms “substantially compliant”, “substantially complies”, or “substantial compliance” with respect to a State law, mean that the State law has the same or similar features as the patient protection requirements and has a similar effect.

(c) DETERMINATIONS OF SUBSTANTIAL COMPLIANCE.—

(1) CERTIFICATION BY STATES.—A State may submit to the Secretary a certification that a State law substantially complies with the patient protection requirements that are at least substantially compliant with one or more patient protection requirements. Such certification shall be accompanied by such information as may be required to permit the Secretary to make the determination described in paragraph (2)(A).

(2) REVIEW.—

(A) IN GENERAL.—The Secretary shall promptly review a certification submitted under paragraph (1) with respect to a State law to determine if the State law substantially complies with the patient protection requirement (or requirements) to which the law relates.

(B) APPEAL DEADLINES.—

(i) INITIAL REVIEW.—Such a certification is considered approved unless the Secretary notifies the State in writing, within 90 days after the date of receipt of the certification, that the certification is disapproved (and the reasons for disapproval) or that specified additional information is needed to make the determination described in subparagraph (A).

(ii) ADDITIONAL INFORMATION.—With respect to a State that has been notified by the Secretary under clause (i) that specified additional information is needed to make the determination described in subparagraph (A), the Secretary shall make the determination within 60 days after the date on which such specified additional information is received by the Secretary.

(C) APPROVAL.—

(i) IN GENERAL.—The Secretary shall approve a certification under paragraph (1) unless—

(A) the State fails to provide sufficient information for the Secretary to make a determination under paragraph (2)(A); or

(B) the Secretary determines that the State law involved does not provide for patient protections that substantially comply with the patient protection requirement (or requirements) to which the law relates.

(ii) STATE CHALLENGE.—A State that has a certification disapproved by the Secretary under subparagraph (A) may challenge such disapproval in the appropriate United States district court.

(iii) IN CONVERSE TO STATES.—With respect to a certification submitted under paragraph (1), the Secretary shall give deference to the State’s interpretation of the State law involved if the disapproved certificate complies with the patient protection requirement.

(D) PUBLIC NOTIFICATION.—The Secretary shall—

(i) provide a State with a notice of the determination to approve or disapprove a certification under this paragraph;

(ii) promptly publish in the Federal Register notice that a State has submitted a certification under paragraph (1);

(iii) promptly publish in the Federal Register the notice described in clause (i) with respect to each State; and

(iv) annually publish the status of all States with respect to certifications.

(4) CONSTRUCTION.—Nothing in this subsection shall be construed as preventing the certification (and approval of certification) of a State law under this subsection solely because the law provides for greater protections for patients than those protections otherwise required to establish substantial compliance.

(5) PETITIONS.—

(A) PETITION PROCESS.—Effective on the date on which the provisions of this Act become effective, as provided for in section 501, a group health plan, health insurance issuer, participant, beneficiary, or enrollee may submit a petition to the Secretary for an advisory opinion as to whether or not a standard or requirement under a State law applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(B) STATE.—The term “State” includes a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any political subdivisions of such, or any agency or instrumentality of such.

SEC. 153. EXCLUSIONS.

(a) NO BENEFIT REQUIREMENTS.—Nothing in this title shall be construed to require a group health plan or health insurance issuer offering health insurance coverage to include specific items and services under the terms of such a plan or coverage, other than those provided under the terms and conditions of such plan or coverage.

(b) EXCLUSION FROM ACCESS TO CARE MANAGEMENT CARE PROVISIONS FOR FEES-FOR-SERVICE COVERAGE.—

(1) IN GENERAL.—The provisions of sections 111 through 117 shall not apply to a group health plan or a health insurance issuer offering health insurance coverage if the only coverage offered under the plan or coverage is fee-for-service coverage (as defined in paragraph (2)).

(2) FEES-FOR-SERVICE COVERAGE DEFINED.—For purposes of this subsection, the term “fee-for-service coverage” means coverage under a group health plan or health insurance coverage that—

(A) reimburses hospitals, health professionals, and other providers on a fee-for-service basis without placing the provider at financial risk;

(B) does not vary reimbursement for such a provider based on an agreement to contract terms and conditions or the utilization of health care items or services relating to such provider; and

(C) allows access to any provider that is lawfully authorized to provide the covered services and that agrees to accept the terms and conditions of payment established under the plan or by the issuer; and

(D) for which the issuer does not require prior authorization before providing for any health care services.

SEC. 154. COVERAGE OF LIMITED SCOPE PLANS.


SEC. 155. REGULATIONS.

The Secretaries of Health and Human Services and Labor shall issue such regulations as may be necessary or appropriate to carry out this title. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this title.

SEC. 156. INCORPORATION INTO PLAN OR COVERAGE DOCUMENTS.

The requirements of this title with respect to a group health plan or health insurance coverage are deemed to be incorporated into, and made a part of, such plan or policy, certificate, or contract providing such coverage and are enforceable under law as if directly included in the documentation of such plan or such policy, certificate, or contract.

TITLE II—APPLICATION OF QUALITY PLANS AND HEALTH INSURANCE COVERAGE UNDER THE PUBLIC HEALTH SERVICE ACT

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE ISSUERS.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

‘‘SEC. 2707. PATIENT PROTECTION STANDARDS.

‘‘Each group health plan shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act, and any health insurance coverage it offers, shall comply with patient protection requirements under such title with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.’’.

(b) CONFORMING AMENDMENT.—Section 2721(b)(2)(A) of such Act (42 U.S.C. 2796-21(b)(2)(A)) is amended by inserting ‘‘other than section 2707’’ after ‘‘requirements of such subsection’’.

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

‘‘SEC. 2753. PATIENT PROTECTION STANDARDS.

‘‘Each health insurance issuer shall comply with patient protection requirements under title I of the Bipartisan Patient Protection Act with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.’’

SEC. 203. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Part C of title XXVII of the Public Health Service Act (42 U.S.C. 2796-21 et seq.) is amended by adding at the end the following:

‘‘SEC. 2783. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

(a) AGREEMENTS WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State or any of the Secretary’s authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

(b) DELEGATIONS.—Any department, agency, or instrumentality of the United States which authority is delegated pursuant to an agreement entered into under this section may, if
authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title which relate to such authority.

SEC. 204. ELIMINATION OF OPTION OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.

Section 7271(b)(2) of the Public Health Service Act (42 U.S.C. 300gg-21(b)(2)) is amended—

(1) in subparagraph (A), by striking "If the plan sponsor" and inserting "Except as provided in subparagraph (D), if the plan sponsor"; and

(2) by adding at the end following:

"(D) ELECTION NOT APPLICABLE TO REQUIREMENTS CONCERNING GENETIC INFORMATION.—

The election described in subparagraph (A) shall not be available with respect to the provisions of subsections (b), (c), and (d) of section 202 of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this title, such term in- cludes a group health plan that provides benefits or coverage under a group health plan described in section 135(b)(1) of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

TITLe III—APPLICATION OF PATIENT PROTECTION STANDARDS TO FEDERAL HEALTH CARE PROGRAMS

SEC. 301. APPLICATION TO FEDERAL HEALTH CARE PROGRAMS.

(a) APPLICATION OF STANDARDS.—

Each Federal health care program shall comply with the patient protection requirements under title I, and such requirements shall be deemed to be incorporated into this section.

(b) RULES OF CONSTRUCTION.—For purposes of this section—

(A) each Federal health care program shall be deemed to be a group health plan;

(B) the Federal Government shall be deemed to be the plan sponsor of each Federal health care program;

(C) each individual eligible for benefits under a Federal health care program shall be deemed to be an enrollee under that program.

(b) FEDERAL HEALTH CARE PROGRAM DEFINED.—In this section, the term 'Federal health care program' means each health program established under chapter 5 of title 5, United States Code.

IV—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 401. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS BY AN INDIVIDUAL OR FAMILY OF NON-FEDERAL GOVERNMENTAL PLANS TO BE EXCEPTED FROM REQUIREMENTS CONCERNING GENETIC INFORMATION.

Section 7271(b)(2) of the Public Health Service Act (42 U.S.C. 300gg-21(b)(2)) is amended by adding at the end following:

"(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of title I of the Bipartisan Patient Protection Act (as defined in section 135(b) of such Act), and such requirements shall be deemed to be incorporated into this subsection.

(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

(1) SATISFACTION OF CERTAIN REQUIREMENTS CONCERNING GENETIC INFORMATION.—For purposes of this section, such term includes a group health plan that provides benefits or coverage under a group health plan described in section 135(b)(1) of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

(2) CAUSE OF ACTION RELATING TO PROVISION OF HEALTH BENEFITS.—For purposes of this title, such term includes a group health plan that provides benefits or coverage under a group health plan described in section 135(b)(1) of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

(3) Satisfy Action Against the Federal Government.—For purposes of section 301 of this title, such term includes a group health plan that provides benefits or coverage under a group health plan described in section 135(b)(1) of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

(4) Application to Certain Prohibitions Against Retaliation.—With respect to compliance with the requirements of section 301 of this title, such term includes a group health plan that provides benefits or coverage under a group health plan described in section 135(b)(1) of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

(5) Application to Certain Prohibitions Against Improper Incentive Arrangements.—With respect to compliance with the requirements of section 301 of this title, such term includes a group health plan that provides benefits or coverage under a group health plan described in section 135(b)(1) of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

(6) Construction.—Nothing in this section shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

(7) Treatment of Substantially Compliant State Laws.—For purposes of applying this section, any reference in this subsection to a requirement or other provision in the Bipartisan Patient Protection and Affordable Care Act with respect to a health insurance issuer is deemed to include a reference to a requirement or other provision in a law that substantially complies (as determined under section 152(c) of such Act) with the requirement in such section or other provision with respect to such requirement or other provision.

(8) Application to Certain Prohibitions Against Retaliation.—With respect to compliance with the requirements of section 301 of this title, such term includes a group health plan that provides benefits or coverage under a group health plan described in section 135(b)(1) of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

(9) Enforcement of Certain Requirements.—

(A) In General.—The Secretary shall enforce this section and such term in accordance with the requirements imposed under section 201 of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

(B) Authority.—The Secretary shall enforce this section and such term in accordance with the requirements imposed under section 201 of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

(10) Application to Certain Prohibitions Against Improper Incentive Arrangements.—With respect to compliance with the requirements of section 301 of this title, such term includes a group health plan that provides benefits or coverage under a group health plan described in section 135(b)(1) of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

(11) Enforcement of Certain Requirements.—

(A) In General.—The Secretary shall enforce this section and such term in accordance with the requirements imposed under section 201 of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

(B) Authority.—The Secretary shall enforce this section and such term in accordance with the requirements imposed under section 201 of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

(12) Application to Certain Prohibitions Against Improper Incentive Arrangements.—With respect to compliance with the requirements of section 301 of this title, such term includes a group health plan that provides benefits or coverage under a group health plan described in section 135(b)(1) of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

(13) Enforcement of Certain Requirements.—

(A) In General.—The Secretary shall enforce this section and such term in accordance with the requirements imposed under section 201 of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.

(B) Authority.—The Secretary shall enforce this section and such term in accordance with the requirements imposed under section 201 of the Bipartisan Patient Protection and Affordable Care Act, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care professional.
(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of subtitle A of title I of the Bipartisan Patient Protection Act, and compliance with section 714(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(b)(3)) is amended by inserting “section 714” and inserting “section 713”.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 713 the following new item:

"Sec. 714. Patient protection standards.".

(c) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 155(b)(1))" after "part 7".

SEC. 402. AVAILABILITY OF CIVIL REMEDIES.

(a) Availability of Federal Civil Remedies in Cases Not Involving Medically Reviewable Decisions.

(1) In General.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended by adding at the end the following new subsection:

"(n) CAUSE OF ACTION AGAINST EMPLOYERS AND OTHER PLAN SPONSORS.—

"(1) IN GENERAL.—In any case in which—

"(A) a person who is a fiduciary of a group health plan, or other plan sponsor, issued or entered into a personal injury coverage or maintained a personal injury coverage, fails to the extent that a cause of action under State law is

"(B) such failure is a proximate cause of personal injury to, or the death of, the participant or beneficiary.

such plan, plan sponsor or issuer shall be liable to the participant or beneficiary (or the estate of such participant or beneficiary) for economic and noneconomic damages (but not exemplary damages) for violation of the terms and conditions of the plan or coverage, or

"(2) CAUSE OF ACTION MUST NOT INVOLVE MEDICALLY REVIEWABLE DECISION.—

"(1) IN GENERAL.—A cause of action for violation of the terms and conditions of the plan or coverage may be brought only in connection with a decision described in paragraph (1)(A).

"(B) MEDICALLY REVIEWABLE DECISION.—For purposes of this subsection, the term ‘medically reviewable decision’ means a decision of a claim for benefits under the plan with respect to a non-medically reviewable duty of the plan, the plan sponsor, or any health insurance issuer offering health insurance coverage in connection with the plan.

"(c) CLAIM FOR BENEFITS.—The terms ‘claim for benefits’ and ‘denial of a claim for benefits’ have the meanings provided in such terms in section 155(e) of the Bipartisan Patient Protection Act of 2001.

"(d) TERMS AND CONDITIONS.—The term ‘terms and conditions’ includes, with respect to a group health plan or health insurance coverage, requirements imposed under title I of the Bipartisan Patient Protection Act of 2001.

"(2) GROUP HEALTH PLAN AND OTHER RELATED TERMS.—The provisions of sections 732 and 733 apply for purposes of this subparagraph to the extent that a cause of action under State law is

"(B) a claim for benefits, that degree of care, skill, and diligence that a reasonable and prudent individual would exercise in making a fair determination on a claim for benefits of like kind is provided.

"(2) PERSONAL INJURY.—The term ‘personal injury’ means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(C) CLAIM FOR BENEFITS.—The terms ‘claim for benefits’ and ‘denial of a claim for benefits’ have the meanings provided in such terms in section 155(e) of the Bipartisan Patient Protection Act of 2001.

"(D) TERMS AND CONDITIONS.—The term ‘terms and conditions’ includes, with respect to a group health plan or health insurance coverage, requirements imposed under title I of the Bipartisan Patient Protection Act of 2001.

"(E) GROUP HEALTH PLAN AND OTHER RELATED TERMS.—The provisions of sections 732(d) and 733 apply for purposes of this subparagraph to the extent that a cause of action under State law is

"(i) regarding whether an item or service is covered under the terms and conditions of the plan or coverage.

"(ii) whether a delay in the provision of necessary health care was unreasonable and, if such delay was unreasonable, whether the delay was proximate cause of personal injury to, or the death of, the participant or beneficiary.

"(ii) whether a delay in the provision of necessary health care was unreasonable and, if such delay was unreasonable, whether the delay was proximate cause of personal injury to, or the death of, the participant or beneficiary.

"(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 155(b)(1))" after "part 7".

"(C) CLAIM FOR BENEFITS.—The terms ‘claim for benefits’ and ‘denial of a claim for benefits’ have the meanings provided in such terms in section 155(e) of the Bipartisan Patient Protection Act of 2001.

"(D) TERMS AND CONDITIONS.—The term ‘terms and conditions’ includes, with respect to a group health plan or health insurance coverage, requirements imposed under title I of the Bipartisan Patient Protection Act of 2001.

"(E) GROUP HEALTH PLAN AND OTHER RELATED TERMS.—The provisions of sections 732(d) and 733 apply for purposes of this subparagraph to the extent that a cause of action under State law is

"(i) regarding whether an item or service is covered under the terms and conditions of the plan or coverage.

"(ii) whether a delay in the provision of necessary health care was unreasonable and, if such delay was unreasonable, whether the delay was proximate cause of personal injury to, or the death of, the participant or beneficiary.

"(ii) whether a delay in the provision of necessary health care was unreasonable and, if such delay was unreasonable, whether the delay was proximate cause of personal injury to, or the death of, the participant or beneficiary.
unless the requirements of subparagraph (A) are met.

(2) EXCEPTION FOR NEEDED CARE.—A participant or beneficiary may seek relief exclusively in Federal court under subsection 502(a)(1)(B) prior to the exhaustion of administrative remedies under sections 102, 103, or 104 of the Bipartisan Patient Protection Act of 2001 (as required under subparagraph (A)) if it is demonstrated to the court that the exhaustion of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the awarding of relief under paragraph (1) pursuant to this subparagraph, no relief shall be available as a result of, or arising under, paragraph (1)(A) or paragraph (1)(B), with respect to a participant or beneficiary unless the requirements of subparagraph (A) are met.

(3) EXCEPTIO...
“(ii) assumes unconditionally all liability of the employer or plan sponsor involved (and any employee thereof acting within the scope of employment) either arising under subsection (A) or arising in a cause of action permitted under section 514(d) in connection with actions (and failures to act) of the employer or plan sponsor (or employee) occurring during the period in which the designation under subsection (n)(18) or section 514(d)(9) is in effect relating to such participant and beneficiary.

“(iii) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary, and

“(iv) where paragraph (2)(B) applies, assumes unconditionally the exclusive authority under the group health plan to make medically reviewable decisions under the plan with respect to such participant or beneficiary.

“The appropriate amounts of liability insurance and minimum capital and surplus levels for purposes of subparagraphs (A) and (B) shall be determined by an actuary using a method of accounting practices pursuant to established guidelines of the American Academy of Actuaries and in accordance with such regulations as the Secretary may prescribe that are maintained throughout the term for which the designation is in effect. The provisions of this paragraph shall not apply in the case of a designated decisionmaker that is a group health plan, plan sponsor, or health insurance issuer and that is regulated under Federal law or a State financial solvency law. A designated decisionmaker under this subsection with respect to such participant or beneficiary shall be in addition to any liability that it may otherwise have under applicable law.

“(2) Qualifications for designated decisionmakers.—

“(A) In general.—Subject to subparagraph (B), an entity is qualified under this paragraph to serve as a designated decisionmaker with respect to a group health plan if the entity has the ability to assume the liability described in paragraph (1) with respect to participants and beneficiaries under such plan. The requirements of this paragraph shall be provided to the plan sponsor or named fiduciary and to the Secretary upon designation under subsection (n)(18) or section 514(d)(9) and to the plan; and

“(B) Special qualification in the case of certain reviewable decisions.—In the case of a group health plan that provides benefits consisting of medical care to a participant or beneficiary only through health insurance coverage offered by a single health insurance issue, such issuer is the only entity that may be qualified under this paragraph to serve as a designated decisionmaker with respect to such participant or beneficiary, and shall serve as the designated decisionmaker unless the plan sponsor or fiduciary acts affirmatively to prevent such service.

“(C) Requirements relating to financial obligations.—For purposes of paragraph (2)(A), the requirements relating to the financial obligation of an entity for liability shall include—

“(i) coverage of such entity under an insurance policy or other arrangement, secured and maintained by such entity, to effectively insure such entity against losses arising from professional liability claims, including claims arising from its service as a designated decisionmaker under this part;

“(ii) evidence of minimum capital and surplus levels that are maintained by such entity to effectively insure such entity against losses arising from its service as a designated decisionmaker under this part.

“(D) Rules relating to causes of action under state law involving medically reviewable decisions.—

“(I) Non-preemption of certain causes of action.—

“(a) In general.—Except as provided in this subsection, nothing in this title (including section 502) shall be construed to supersede, invalidate, or impair any cause of action under State law of a participant or beneficiary under a group health plan (or the estate of such participant or beneficiary) to recover damages resulting from personal injury or for wrongful death against any person if such cause of action arises by reason of a medically reviewable decision.

“(b) Medically reviewable decision.—For purposes of subparagraph (A), the term ‘medically reviewable decision’ means a decision of a claim for benefits under the plan which is described in section 104(d)(2) of the Bipartisan Patient Protection Act of 2001 (relating to medically reviewable decisions).

“(ii) In general.—Except as provided in clauses (i) and (iii), with respect to a cause of action described in subparagraph (A) brought with respect to a participant or beneficiary, State law is superseded insofar as it provides any punitive, exemplary, or similar damages if, as of the time of the personal injury or death, all the requirements of the following sections of the Bipartisan Patient Protection Act of 2001 were satisfied with respect to the participant or beneficiary:

“(I) Section 103 of such Act (relating to internal appeals).

“(II) Section 104 of such Act (relating to independent external appeals procedures).
on a particular claim for benefits of a particular participant or beneficiary, including (but not limited to)—

(1) any participation by the employer or other plan sponsor (or employee) in the selection of the group health plan or health insurance coverage involved or the third party administrator or other agent.

(2) any determination by the employer or other plan sponsor (or employee) in any cost-benefit analysis undertaken in connection with the selection of, or continued maintenance of, the group health plan or health insurance coverage involved.

(III) any determination by the employer or other plan sponsor (or employee) in the process of making, modifying, or terminating the plan or any benefit under the plan, if such process was not substantially focused solely on the particular situation of the participant or beneficiary referred to in paragraph (1)(A); and

(IV) any participation by the employer or other plan sponsor (or employee) in the design of any benefit under the plan, including the amount of copayment and limits connected with such benefit.

(10) IN RELATION TO CERTAIN COLLABORATIVE EFFORTS INVOLVED OR PLANNED BY EMPLOYER OR PLAN SPONSOR.—For purposes of this subparagraph, an employer or plan sponsor shall not be treated as engaged in direct participation in a decision or as having claimed a cause of action or benefited from a determination of such remedies would cause irreparable harm to the health of the participant or beneficiary. Notwithstanding the award of such remedies, a cause of action under paragraph (1) involving a determination pursuant to section 104(e)(1)(A)(i), a participant or beneficiary may bring an action under section 50(d) after the date on which such time period has expired and the filing of such action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(ii).

(ii) EXPEDITED DETERMINATION.—If the external review entity fails to make a determination within the time required under section 104(e)(1)(A)(i) on or before the date on which such time period has expired and the filing of such action, the participant or beneficiary may bring an action under this subsection and the filing of such an action shall not affect the duty of the independent medical reviewer (or reviewers) to make a determination pursuant to section 104(e)(1)(A)(ii).

(ii) REQUIREMENT OF EXHAUSTION.—A cause of action may not be brought under paragraph (1) relating to quality of care unless the participant or beneficiary has exhausted all administrative processes referred to in subsection (a)(1)(C) and this subsection in connection with such claim.

(1) ADVERSE DETERMINATION.—An adverse determination made by a reviewer in an administrative proceeding under section 104 of the Bipartisan Patient Protection Act of 2001 shall be deemed to be an adverse determination within the meaning of section 502(a)(1) relating to a denial of a claim for benefits that is the subject of an action brought in State court shall be tolled until such time as the State court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the State court. The tolling period is determined by the more applicable Federal or State law, whichever period is greater.

(6) TOLLING PROVISION.—The statute of limitations for any cause of action arising under section 502(a)(1) relating to a denial of a claim for benefits that is the subject of an action brought in State court shall be tolled until such time as the State court makes a final disposition, including all appeals, of whether such claim should properly be within the jurisdiction of the State court. The tolling period is determined by the more applicable Federal or State law, whichever period is greater.

(7) EXCLUSION OF DIRECTED RECORDKEEPERS.—

(2) DIRECTED RECORDKEEPER.—For purposes of this paragraph, the term ‘directed recordkeeper’ means, in connection with a group health plan, a person engaged in directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the collection, maintenance, and distribution of information and disclosure materials under this Act or title I of the Bipartisan Patient Protection Act of 2001 and whose activities do not involve making decisions on claims for benefits.

(8) LIMITATION.—Subparagraph (A) does not apply in connection with any directed recordkeeping activities pursuant to the specific instructions of the plan or the employer or other plan sponsor, including the collection, maintenance, and distribution of information and disclosure materials under this Act or title I of the Bipartisan Patient Protection Act of 2001 and whose activities do not involve making decisions on claims for benefits.

(9) EXCEPTION.—Nothing in this subsection shall be construed as—

(A) saving from preemption a cause of action under State law for the failure to provide a benefit which is specifically excluded under the group health plan involved, except to the extent that—

(i) the application or interpretation of the exclusion involves a determination described in section 104(d)(2) of the Bipartisan Patient Protection Act of 2001, or

(ii) the provision of the benefit for the item or service is required under Federal law or under applicable State law consistent with subsection (b)(2)(B);

(B) preempting a State law which requires an affidavit or certificate of service in a civil action;

(C) affecting a cause of action or remedy under State law in connection with the provision or arrangement of excepted benefits (as defined in section 733(c)), other than those described in section 733(c)(2)(A); or

(D) affecting a cause of action under State law in connection with the provision of any cause of action described in paragraph (1)(A).

(8) PURCHASE OF INSURANCE TO COVER LIABILITY.—Nothing in section 410 shall be construed to preclude the purchase by a group health plan of insurance to cover any liability or losses arising under a cause of action described in paragraph (1)(A).

(9) REMEDIES AVAILABLE FOR EMPLOYER OR OTHER PLAN SPONSOR BY MEANS OF DESIGNATED DECISION-MAKER.—

(A) IN GENERAL.—(1) shall apply with respect to any cause of action described in paragraph (1)(A) under State law insofar as such cause of action provides for liability of an employer or plan sponsor (or an employee thereof acting within the scope of employment) with respect to such participant or beneficiary, if with respect to the employer or plan sponsor there is deemed to be a designated decisionmaker that meets the requirements of section 502(o)(1) with respect to such participant or beneficiary. Such paragraph (1) shall apply with respect to any cause of action described in paragraph (1)(A) under State law insofar as such cause of action involves the designation of such employer or other plan sponsor with respect to the participant or beneficiary.

(B) APPLICABLE DESIGNATION.—A health insurance issuer shall be deemed to be a designated decisionmaker for purposes of subparagraph (A) with respect to the participant or beneficiary under the plan or coverage if with respect to the participant or beneficiary, if with respect to the employer or plan sponsor there is deemed to be a designated decisionmaker that meets the requirements of section 502(o)(1) with respect to such participant or beneficiary. Such paragraph (1) shall apply with respect to any cause of action described in paragraph (1)(A) under State law insofar as such cause of action involves the designation of such employer or other plan sponsor with respect to the participant or beneficiary.

(10) PREVIOUSLY PROVIDED SERVICES.—

(A) IN GENERAL.—Except as provided in this paragraph, a cause of action shall not arise under paragraph (1) where the denial involved relates to an item or service that has already been fully provided to the participant or beneficiary under the plan or coverage for which the claim relates solely to the subsequent denial of payment for the provision of such item or service.

(1) PROHIBITION.—Nothing in subparagraph (A) shall be construed to—

(i) prohibit a cause of action under paragraph (1) where the nonpayment involved results in the participant or beneficiary being unable to receive further items or services that are directly related to the item or service involved in the denial referred to in subparagraph (A) or that are part of a continuing treatment or arrangement of excepted benefits; or

(ii) prohibit a cause of action under paragraph (1) relating to quality of care; or

(iii) limit liability that otherwise would attach from the provision of the item or services or the performance of a medical procedure.
(1) EXEMPTION FROM PERSONAL LIABILITY FOR INDIVIDUAL MEMBERS OF BOARDS OF DIRECTORS, JOINT BOARDS OF TRUSTEES, ETC.—Any individual who is—

"(A) a member of a board of directors of an employer or plan sponsor; or

"(B) a member of an association, committee, employee organization, joint board of trustees, or other similar group of representatives of the entities that are the plan sponsor of plan maintained by two or more employers and one or more employee organizations shall not be personally liable under this subsection for conduct that is within the scope of employment (whether or not an individual acts in a fraudulent manner for personal enrichment.

(2) CHOICE OF LAW.—A cause of action brought under paragraph (1) shall be governed by the law (including choice of law rules) of the State in which the plaintiff resides.

(3) LIMITATION ON ATTORNEYS' FEES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, or any arrangement, agreement, or contract regarding an attorney's contingency fee allowable for a cause of action brought under paragraph (1) shall not exceed 40% of the total amount of the plaintiff's recovery (not including the reimbursement of actual out-of-pocket expenses of the attorney).

"(B) DETERMINATION BY COURT.—The last court in which a cause of action was permitted to the final disposition, including all appeals, of the action may review the attorney's fee to ensure that the fee is a reasonable one.

"(C) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a law or framework similar to the State law (as defined in subparagraph (A)) of an attorney's contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action.

(e) RULES OF CONSTRUCTION RELATING TO HEALTH CARE.—Nothing in this title shall be construed as—

"(1) affecting any State law relating to the practice of medicine or the provision of, or the failure to provide, medical care, or affecting any State law that is based on the liability (whether is direct or vicarious) based on the final disposition, including all appeals, of the action may review the attorney's fee to ensure that the fee is a reasonable one.

"(C) NO PREEMPTION OF STATE LAW.—Subparagraph (A) shall not apply with respect to a cause of action under paragraph (1) that is brought in a State that has a law or framework similar to the State law (as defined in subparagraph (A)) of an attorney's contingency fee that may be incurred for the representation of a participant or beneficiary (or the estate of such participant or beneficiary) who brings such a cause of action.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to all civil actions that are filed on or after January 1, 2002.

301. EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

(a) GROUP HEALTH COVERAGE.—

"(1) IN GENERAL.—Subject to paragraph (2) and subsection (d), the amendments made by sections 201(a), 401, and 403 (and title I) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2002 (in this section referred to as the "general effective date").

"(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more group health plans, nothing in this Act shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after October 1, 2002 (in this section referred to as the "general effective date").

(b) GROUP HEALTH COVERAGE.—

"(1) IN GENERAL.—Nothing in this Act (or the amendments made thereby) shall not be construed as a termination of such collective bargaining agreement.

Any claim or cause of action relating to group health plans and with respect to collective bargaining agreements may be brought under subsection (e) of section 151 of the Employee Retirement Income Security Act of 1974 (as amended by section 402) is further amended by adding at the end the following new subsection:

"(q) LIMITATIONS ON ACTIONS RELATING TO GROUP HEALTH PLANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no action may be brought under subsection (a)(1)(B), (a)(2), or (a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) (as amended by subsection (a)(2)(A)) by a participant or beneficiary seeking relief based on the application of any provision in section 101, subtitle B, or subtitle D of title I of the Bipartisan Patient Protection Act (as incorporated under section 714) to the individual circumstances of that participant or beneficiary, except that—

"(A) such an action may not be brought or maintained as a class action; and

"(B) in such an action, relief may only provide for the provision of (or payment of) benefits, items, or services denied to the individual participant or beneficiary involved (and for attorney's fees and the costs of the action, at the discretion of the court) and shall not provide for any other relief to the participant or beneficiary or for any relief to any other person.

"(3) OTHER PROVISIONS UNAFFEC TED.—Nothing in this subsection shall be construed as affecting subsections (a)(1)(C) and (d) or section 514(d).

"(4) ENFORCEMENT BY SECRETARY UNAFFECTED.—Nothing in this subsection shall be construed as affecting any action brought by the Secretary.

405. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

Subpart C of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1191 et seq.) is amended by adding by adding at the end the following new section:

"SEC. 735. COOPERATION BETWEEN FEDERAL AND STATE AUTHORITIES.

"(a) AGREEMENT WITH STATES.—A State may enter into an agreement with the Secretary for the delegation to the State of some or all of the Secretary's authority under this title to enforce the requirements applicable under title I of the Bipartisan Patient Protection Act with respect to health insurance coverage offered by a health insurance issuer and with respect to a group health plan that is a non-Federal governmental plan.

"(b) DELEGATIONS.—Any department, agency, or instrumentality of a State to which authority is delegated pursuant to an agreement entered into under this section may, if authorized under State law and to the extent consistent with such agreement, exercise the powers of the Secretary under this title with respect to which such authority relates.

406. SENSE OF THE SENATE CONCERNING THE IMPORTANCE OF CERTAIN UNAFFIRMED PROVISIONS.

It is the sense of the Senate that the court should consider the loss of a nonwage earning spouse or parent as an economic loss for the purposes of this section. Furthermore, the court should define the compensation for the loss as not as minimum services, but, rather, as some fair compensation for the true and whole replacement cost to the family.

TITLES I—EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

SEC. 501. EFFECTIVE DATES; COORDINATION IN IMPLEMENTATION

(a) GROUP HEALTH COVERAGE.—

"(1) IN GENERAL.—Nothing in this Act (or the amendments made thereby) shall not be construed as a termination of such collective bargaining agreement.
SEC. 603. FISCAL YEAR 2002 MEDICARE PAYMENTS.

Notwithstanding any other provision of law, any letter of credit under part B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) that would otherwise be sent to the Treasury or the Federal Reserve Board on September 30, 2002, by a carrier with a child under section 1842 of that Act (42 U.S.C. 1395u) shall be sent on October 1, 2002.

SEC. 604. SENSE OF SENATE WITH RESPECT TO PARTICIPATION IN CLINICAL TRIALS BY SERIOUSLY ILL PATIENTS.

(a) FINDINGS.—The Senate finds the following:

(1) Breast cancer is the most common form of cancer among women, excluding skin cancer.

(2) During 2001, 182,800 new cases of female invasive breast cancer will be diagnosed, and 40,800 women will die from the disease.

(3) In addition, 1,400 male breast cancer cases are projected to be diagnosed, and 400 men will die from the disease.

(4) Breast cancer is the second leading cause of cancer death among all women and the leading cause of cancer death among women between ages 40 and 55.

(5) This year, 6,000 children are expected to be diagnosed with cancer.

(6) 1,500 children are expected to die from cancer this year.

(7) There are approximately 333,000 people diagnosed with multiple sclerosis in the United States and 200 more cases are diagnosed each week.

(8) Parkinson disease is a progressive disorder of the central nervous system affecting 1,000,000 in the United States.

(9) An estimated 196,100 men will be diagnosed with prostate cancer this year.

(10) 51,500 men will die from prostate cancer this year. It is the second leading cause of cancer in men.

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

(1) every patient who is denied care by a health maintenance organization or other health insurance company should be entitled to a fair, speedy, impartial appeal to a review organization that has not been selected by the health plan;

(2) the States should be empowered to maintain and develop the appropriate process for selection of the independent external review entity;

(3) a child battling a rare cancer whose health maintenance organization has denied a covered treatment recommended by his physician should be entitled to a fair and impartial external appeal to a review organization that has not been chosen by the health maintenance organization to select the review organization that is entrusted with providing a neutral and unbiased medical review.

(c) SENSE OF THE SENATE REGARDING FAIR REVIEW PROCESS.

It is the sense of the Senate that—

(1) while employers and health plans should have responsibility under the provisions of this Act (or an amendment made by this Act) to a fair, speedy, impartial external appeals process appeals is essential to any meaningful program of patient protection.

(2) the independence and objectivity of the review organization and review process must be ensured.

(3) it is incompatible with a fair and independent appeals process to allow a health maintenance organization to select the review organization that is entrusted with providing a neutral and unbiased medical review.

(d) THE AMERICAN ARBITRATION ASSOCIATION.—It is the sense of the Senate that—

(1) the American Arbitration Association shall have responsibility under the provisions of this Act (or an amendment made by this Act) to a fair, speedy, impartial external appeals process appeals is essential to any meaningful program of patient protection.

(2) the independence and objectivity of the review organization and review process must be ensured.

(3) it is incompatible with a fair and independent appeals process to allow a health maintenance organization to select the review organization that is entrusted with providing a neutral and unbiased medical review.

SEC. 605. ANNUAL REVIEW.

(a) IN GENERAL.—Not later than 24 months after the effective date referred to in section 501(a)(1), and annually thereafter for each of the succeeding 4 calendar years (or until a repeal is effective under subsection (b)), the Secretary of Health and Human Services shall request that the Institute of Medicine of the National Academy of Sciences prepare and submit to the appropriate committees of Congress a report concerning the impact of this Act, and the effect on the number of individuals in the United States with health insurance coverage.
Mr. WELSTON. I object. The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, therefore, I move to proceed to the consideration of H.R. 333, and I will send a cloture motion to the desk. I also ask unanimous consent that on Thursday, July 12, beginning at 9 a.m., there be a period for debate of 3 hours prior to the cloture vote to be divided as follows: 2 hours under Senator WELSTON's control, and 1 hour equally divided between the chairman and ranking member of the Judiciary Committee, or their designees; that if cloture is invoked, the Senate proceed to the bill by consent and Senator LEAHY, or his designee, be recognized to offer the text of S. 420, the Senate-passed bankruptcy bill, as a substitute amendment; that if a cloture motion is filed on that amendment, the cloture motion on the substitute amendment mature on Tuesday, July 17, that prior to that vote, there be a period for debate beginning at 9 a.m., divided as follows: 2 hours under the control of the senior Senator from Minnesota, Mr. WELSTON, and 1 hour equally divided between the chairman and ranking member of the Judiciary Committee, or their designees; that once the substitute amendment has been offered and cloture filed, the bill be laid aside until Tuesday, July 17, and that both mandatory quorum calls be waived.

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

CLOTURE MOTION

Mr. REID. I send a cloture motion to the desk. The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to Calendar No. 17, H.R. 333, the bankruptcy reform bill:


UNANIMOUS CONSENT AGREEMENT—S. 1077

Mr. REID. Mr. President, I ask unanimous consent that when the Senate resumes consideration of the supplemental appropriations bill tomorrow, Tuesday, at 10 a.m., there be 2 hours of concurrent debate equally divided between Senator Voinovich and Senator Conrad, or their designees, in relation to the lockbox amendments, No. 866 and No. 867. Further, that following the use or yielding back of time, the amendments be laid aside.

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

ORDERS FOR TUESDAY, JULY 10, 2001

Mr. REID. Mr. President, I ask consent when the Senate completes its business today, it adjourn until the hour of 10 a.m. Tuesday, July 10. I further ask consent that on Tuesday, immediately following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour being deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the supplemental appropriations bill; further, that the Senate recess from 12:30 to 2:15 for our weekly party conferences.

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

PROGRAM

Mr. REID. Mr. President, on Tuesday, the Senate will convene at 10 a.m. and resume consideration of the supplemental appropriations bill. The Senate is going to recess from 12:30 to 2:15 for the weekly party conferences. Rollcall votes are expected as the Senate works to complete action on the supplemental appropriations bill tomorrow. It could be a late evening. We have a number of amendments we are trying to resolve. Senator BYRD and Senator STEVENS want to finish that, as does the majority leader, Senator DASCHLE.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:20 p.m., adjourned until Tuesday, July 10, 2001, at 10 a.m.
EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 10, 2001 may be found in the Daily Digest of today’s RECORD.

MEETINGS SCHEDULED

JULY 11

9 a.m.

Governmental Affairs

To hold hearings on S. 803, to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine genomic research issues.

SH–216

9:30 a.m.

Governmental Affairs

To hold hearings on S. 803, to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services.

Appropriations

Labor, Health and Human Services, and Education Subcommittee

To hold hearings to examine genomic research issues.

SH–216

Commerce, Science, and Transportation

To hold hearings to examine existing laws protecting Internet privacy both in the United States and abroad, and the impact privacy legislation may have on the market.

SR–253

Armed Services

Readiness and Management Support Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on the readiness of United States military forces and the fiscal year 2002 budget amendment.

SR–232A

10 a.m.

Finance

To continue hearings to examine the role of tax incentives in energy policy.

SD–215

Health, Education, Labor, and Pensions

To hold hearings to examine the achievement of parity for mental health services.

SD–430

2 p.m.

Appropriations

District of Columbia Subcommittee

To continue hearings on proposed legislation making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002.

SD–192

Armed Services

Strategic Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on the budget request for national security space programs, policies, operations, and strategic systems and programs.

SR–222

3 p.m.

Foreign Relations

To hold hearings on the nomination of Aubrey Hooks, of Virginia, to be Ambassador to the Democratic Republic of the Congo; and the nomination of Donald J. McConnell, of Ohio, to be Ambassador to the State of Eritrea; the nomination of Peter R. Chaveas, of Pennsylvania, to be Ambassador to the Republic of Sierra Leone; the nomination of Nancy J. Powell, of Iowa, to be Ambassador to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador to the Republic of Equatorial Guinea.

SD–419

5:45 p.m.

Armed Services

Closed business meeting with British Secretary of State for Foreign and Commonwealth Affairs.

SR–236

JULY 12

8:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the nomination of James R. Moseley, of Indiana, to be Deputy Secretary of Agriculture; and the nomination of Joseph J. Jen, of Kentucky, to be Ambassador to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador to the Republic of Equatorial Guinea.

SD–419

9 a.m.

Appropriations

Energy and Water Development Subcommittee

Business meeting to consider the nomination of Patricia Lynn Scarlett, of California, to be Assistant Secretary for Policy, Management and Budget, the nomination of Bennett William Raley, of Colorado, to be Assistant Secretary for Water Resources, the nomination of Frances P. Mainella, of Florida, to be Director of the National Park Service, the nomination of John W. Keys, III, of Utah, to be Commissioner of Reclamation, all of the Department of the Interior; the nomination of Vicky A. Bailey, of Indiana, to be Assistant Secretary of Energy for International Affairs and Domestic Policy; a proposed revision of the statement for completion by presidential nominees; and the appointment of subcommittee membership.

S–128, Capitol

9:15 a.m.

Energy and Natural Resources

To hold hearings to examine the context, frame, and scope of nuclear decommissioning and new energy policy that can provide a more sustainable and predictable long-term economic safety net.

SR–332

Military Construction, Veterans Affairs, and Related Agencies Appropriations Subcommittee

To hold hearings to examine the context, frame, and scope of nuclear decommissioning and new energy policy that can provide a more sustainable and predictable long-term economic safety net.

SD–366

This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor. Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.
To hold hearings on the nomination of Mark B. McCloskey, of California, to be a Member of the Council of Economic Advisers; and the nomination of Sheila C. Bair, of Kansas, to be Assistant Secretary of the Treasury for Financial Institutions; and to hold a business meeting to consider the nomination of Roger Walton Ferguson, Jr., of Massachusetts, to be a Member of the Board of Governors of the Federal Reserve System; the nomination of Donald E. Powell, of Texas, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation; the nomination of Angela Antonelli, of Virginia, to be Chief Financial Officer, and the nomination of Ronald Rosenfeld, of Maryland, to be President, Government National Mortgage Association, both of the Department of Housing and Urban Development; and the nomination of Jennifer L. Dorn, of Nebraska, to be Federal Transit Administrator, Department of Transportation.

To hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on installation programs, military construction programs, and family housing programs.


To hold hearings on proposals related to energy efficiency, including S. 352, the Energy Efficiency Act; S. 95, the Federal Energy Bank Act; and S.J. Res. 15, providing for congressional disapproval of the rule submitted by the Department of Energy relating to the postponement of the effective date of energy conservation standards for central air conditioners.

To hold hearings on proposed legislation authorizing funds for fiscal year 2002 to develop the United States Climate Change Response Strategy with the goal of stabilizing greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, while minimizing adverse short-term and long-term economic and social impacts, aligning the Strategy with United States energy policy, and promoting a sound national environmental policy, to establish a research and development program that focuses on bold technological breakthroughs that may significantly progress toward the goal of stabilization of greenhouse gas concentrations, and to establish the National Office of Climate Change Response within the Executive Office of the President.

To hold hearings on proposals related to energy and scientific research, development, technology deployment, education, and training, including Sections 107, 114, 115, 607, Title II, and Subtitle B of Title IV of S. 388, the National Energy Security Act of 2001; Title VIII, X, and Division E of S. 597; the Comprehensive and Balanced Energy Policy Act of 2001; Sections 111, 121, 122, 123, 125, 127, 204, 205, Title IV and Title V of S. 472, the Nuclear Energy Electricity Supply Assurance Act of 2001; S. 90, the Department of Energy Nanoscale Science and Engineering Research Act; S. 193, the Department of Energy Advanced Scientific Computing Act; S. 242, the Department of Energy University Nuclear Science and Engineering Act; S. 258, the National Laboratories Partnership Improvement Act of 2001; and S. 636, a bill to direct the Secretary of Energy to establish a decommissioning pilot program to decommision and decontaminate the Sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas.

To hold hearings on proposals related to removing barriers to distributed generation, renewable energy and other advanced technologies in electricity generation and transmission, including Sections 301 and Title VI of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 110, 111, 112, 710, and 711 of S. 388, the National Energy Security Act of 2001; S. 833, the Combined Heat and Power Advanced Energy Act of 2001; hydroelectric relicensing procedures of the Federal Energy Regulatory Commission, including Title VII of S. 388, Title VII of S. 597; and S. 71, the Hydroelectric Licensing Process Improvement Act of 2001.

To hold hearings on proposals related to global climate change and measures to mitigate greenhouse gas emissions, including S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; S. 388, the National Energy Security Act of 2001; and S. 820, the Forest Resources for the Environment and the Economy Act.

To hold hearings on proposals related to energy and natural resources business meeting to consider pending calendar business.
HIGHLIGHTS
See Résumé of Congressional Activity.

Senate

Chamber Action

Routine Proceedings, pages S7293–S7361

Measures Introduced: One resolution was submitted, as follows: S. Con. Res. 59. Page S7330

Supplemental Appropriations Act: Senate began consideration of S. 1077, making supplemental appropriations for the fiscal year ending September 30, 2001, taking action on the following amendments proposed thereto: Pages S7304–10, S7312–13, S7316–24

Adopted:

Byrd/Stevens Amendment No. 861, to make certain improvements to the bill. Pages S7309–10

Pending:

Reid (for Schumer) Amendment No. 862, to rescind $33,900,000 for the printing and postage costs of the notices to be sent by the Internal Revenue Service before and after the tax rebate, such amount to remain available for debt reduction. Page S7312

Reid (for Feingold) Amendment No. 863, to increase the amount provided to combat HIV/AIDS, malaria, and tuberculosis, and to offset that increase by rescinding amounts appropriated to the Navy for the V–22 Osprey aircraft program. Page S7312

Craig (for Roberts) Amendment No. 864, to prohibit the use of funds for reorganizing certain B–1 bomber forces. Pages S7312–13

Voinovich Amendment No. 865, to protect the social security surpluses by preventing on-budget deficits. Pages S7316–19

Byrd (for Conrad) Amendment No. 866 (to Amendment No. 865), to establish an off-budget lockbox to strengthen Social Security and Medicare. Pages S7318–19

Conrad Amendment No. 867, to provide funds for emergency housing on the Turtle Mountain Indian Reservation. Pages S7319–20

Stevens (for McCain) Amendment No. 868, to increase amounts appropriated to the Department of Defense. Page S7320

Stevens (for McCain) Amendment No. 869, to provide additional funds for military personnel, working-capital funds, mission-critical maintenance, force protection, and other purposes by increasing amounts appropriated to the Department of Defense, and to offset the increases by reducing and rescinding certain appropriations. Page S7320

Stevens (for Hutchinson) Amendment No. 870, to provide additional amounts to repair damage caused by ice storms in the States of Arkansas and Oklahoma. Pages S7320–21

Stevens (for Craig) Amendment No. 871, regarding the proportionality of the level of non-military exports purchased by Israel to the amount of United States cash transfer assistance for Israel. Page S7321

Bond Amendment No. 872, to increase amounts appropriated for the Department of Defense. Page S7323

Reid (for Hollings) Amendment No. 873, ensuring funding for defense and education and the supplemental appropriation by repealing tax cuts for 2001. Pages S7323–24

Reid (for Wellstone) Amendment No. 874, to increase funding for the Low-Income Home Energy Assistance Program, with an offset. Page S7324

Reid (for Johnson) Amendment No. 875, to amend the Higher Education Act of 1965 to make certain interest rate changes permanent. Page S7324

A unanimous-consent-time agreement was reached providing for further consideration of the bill on Tuesday, July 10, 2001, with two hours of concurrent debate, equally divided between Senator Voinovich and Senator Conrad or their designees, in relation to the lock-box Amendment Nos. 866 and 865 (both listed above). Page S7361

Bankruptcy Reform: Senate began consideration of the motion to proceed to consideration of H.R. 333, to amend title 11, United States Code. Page S7361

A motion was entered to close further debate on the motion to proceed to consideration of the bill...
and, by unanimous consent, the cloture vote will occur on Thursday, July 12, 2001.

A unanimous-consent-time agreement was reached providing that on Thursday, July 12, at 9 a.m., there be a period for debate of 3 hours prior to the cloture vote; and that, if cloture is invoked the Senate proceed to the bill by consent and Senator Leahy, or his designee, be recognized to offer the text of S. 420, Senate companion measure, as a substitute amendment; that if a cloture motion is filed on that amendment, the cloture motion on the substitute amendment mature on Tuesday, July 17; that prior to that vote there be a period for debate beginning at 9 a.m.; and that once the substitute amendment has been offered and cloture filed the bill be laid aside until Tuesday, July 17.

Additional Cosponsors: Pages S7330–31
Amendments Submitted: Pages S7332–37
Additional Statements: Pages S7329–30
Text of S. 1052, as Previously Passed: Pages S7338–61
Notices of Hearings:
Adjournment: Senate met at 12 noon, and adjourned at 7:20 p.m., until 10 a.m., on Tuesday, July 10, 2001. (For Senate’s program, see the remarks of the Acting Majority Leader in today’s Record on page S7361.)

Committee Meetings
No committee meetings were held.

House of Representatives

Chamber Action
The House was not in session. Pursuant to the provisions of H. Con. Res. 176, the House will convene at 2 p.m. on Tuesday, July 10.

Committee Meetings
No Committee meetings were held.

NEW PUBLIC LAWS
(For last listing of Public Laws, see DAILY DIGEST of June 26, 2001, p. D638)

S. 1029, to clarify the authority of the Department of Housing and Urban Development with respect to the use of fees during fiscal year 2001 for the manufactured housing program. Signed on July 5, 2001. (Public Law 107–18)

CONGRESSIONAL PROGRAM AHEAD
Week of July 10 through July 14, 2001
Senate Chamber

On Tuesday, Senate will continue consideration of S. 1077, Supplemental Appropriations.

On Thursday, Senate will resume consideration of the motion to proceed to consideration of H.R. 333, Bankruptcy Reform, with a vote on the motion to close further debate to occur thereon.

During the remainder of the week, Senate may consider any other cleared executive and legislative business.

Senate Committees
(Committee meetings are open unless otherwise indicated)

Committee on Agriculture, Nutrition, and Forestry: July 12, to hold hearings on the nomination of James R. Moseley, of Indiana, to be Deputy Secretary of Agriculture; and the nomination of Joseph J. Jen, of California, to be Under Secretary of Agriculture for Research, Education, and Economics, to be followed by hearings to examine the context, framework, and content of the comprehensive federal Farm Bill reauthorization and new agriculture policy that can provide a more sustainable and predictable long-term economic safety net, 8:30 a.m., SR–332.

Committee on Appropriations: July 10, Subcommittee on Foreign Operations, to hold hearings to examine the Andean counterdrug initiative, 2 p.m., SD–138.

July 10, Subcommittee on District of Columbia, to hold hearings on proposed legislation making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, 2 p.m., SD–192.

July 11, Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine genomic research issues, 9:30 a.m., SH–216.

July 11, Subcommittee on District of Columbia, to continue hearings on proposed legislation making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2002, 2 p.m., SD–192.

July 12, Subcommittee on Energy and Water Development, business meeting to mark up H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002, 9 a.m., S–128, Capitol.
July 12, Subcommittee on Transportation, business meeting to mark up H.R. 2299, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, 10 a.m., SD–116.

July 12, Full Committee, business meeting to mark up H.R. 2311, making appropriations for energy and water development for the fiscal year ending September 30, 2002; H.R. 2299, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002; and proposed legislation making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, 2 p.m., S–128, Capitol.

Committee on Armed Services: July 10, to hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on the fiscal year 2002 budget amendment, 9:30 a.m., SH–216.

July 10, Subcommittee on Airland, to hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on the F–22 aircraft program, 2:30 p.m., SR–222.

July 11, Subcommittee on Readiness and Management Support, to hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on the readiness of United States military forces and the fiscal year 2002 budget amendment, 9:30 a.m., SR–232A.

July 11, Subcommittee on Strategic, to hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on the budget request for national security space programs, policies, operations, and strategic systems and programs, 2 p.m., SR–222.

July 11, Full Committee, closed business meeting with British Secretary of State for Foreign and Commonwealth Affairs, 5:45 p.m., SR–236.

July 12, Full Committee, to hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on ballistic missile defense policies and programs, 9:30 a.m., SH–216.

July 12, Subcommittee on Emerging Threats and Capabilities, to hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on cooperative threat reduction, chemical weapons demilitarization, Defense Threat Reduction Agency, non-proliferation research and engineering, and related programs, 2 p.m., SR–222.

July 13, Subcommittee on Readiness and Management Support, to hold hearings on proposed legislation authorizing funds for fiscal year 2002 for the Department of Defense and the Future Years Defense Program, focusing on installation programs, military construction programs, and family housing programs, 9:30 a.m., SR–232A.

Committee on Banking, Housing, and Urban Affairs: July 12, to hold hearings on the nomination of Mark B. McClellan, of California, to be a Member of the Council of Economic Advisers; and the nomination of Sheila C. Bair, of Kansas, to be Assistant Secretary of the Treasury for Financial Institutions; and to hold a business meeting to consider the nomination of Roger Walton Ferguson, Jr., of Massachusetts, to be a Member of the Board of Governors of the Federal Reserve System; the nomination of Donald E. Powell, of Texas, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation; the nomination of Angela Antonelli, of Virginia, to be Chief Financial Officer, and the nomination of Ronald Rosenfeld, of Maryland, to be President, Government National Mortgage Association, both of the Department of Housing and Urban Development; and the nomination of Jennifer L. Dorn, of Nebraska, to be Federal Transit Administrator, Department of Transportation, 10 a.m., SD–538.

Committee on the Budget: July 12, to hold hearings to examine the current economic and budget situation, 10 a.m., SD–608.

Committee on Commerce, Science, and Transportation: July 10, to hold hearings to examine technological and policy options that may serve as starting points for mitigating anthropogenic contributions to global climate change, focusing on energy efficiency achievements, renewable energy technologies, and policy options to reduce carbon emissions, 9:30 a.m., SR–253.

July 11, Full Committee, to hold hearings to examine existing laws protecting Internet privacy both in the United States and abroad, and the impact privacy legislation may have on the market, 9:30 a.m., SR–253.

Committee on Energy and Natural Resources: July 12, business meeting to consider the nomination of Patricia Lynn Scarlett, of California, to be Assistant Secretary for Policy, Management and Budget, the nomination of William Gerry Myers III, of Idaho, to be Solicitor, the nomination of Bennett William Raley, of Colorado, to be Assistant Secretary for Water and Science, the nomination of Frances P. Mainella, of Florida, to be Director of the National Park Service, the nomination of John W. Keys III, of Utah, to be Commissioner of Reclamation, all of the Department of the Interior; the nomination of Vicky A. Bailey, of Indiana, to be Assistant Secretary of Energy for International Affairs and Domestic Policy; a proposed revision of the statement for completion by presidential nominees; and the appointment of subcommittee membership, 9:15 a.m., SD–366.

July 12, Full Committee, to hold hearings on provisions to protect energy supply and security (Title I of S. 388, The National Energy Security Act of 2001); oil and gas production (Title III and Title V of S. 388; Title X of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001); drilling moratoriums on the Outer Continental Shelf (S. 901, the Coastal States Protection Act; S. 1086, the COAST Anti-Drilling Act; S. 771, to permanently prohibit the conduct of offshore drilling on the Outer Continental Shelf of the State of Florida); energy regulatory reviews and studies (Title III of S. 597); S. 900, the Consumer Energy Commission Act of 2001; and provisions to promote nuclear power (sections 126 and 128–130 of Title I, and Titles II and III of S. 472, the
Nuclear Energy Electricity Supply Assurance Act of 2001; S. 919, to require the Secretary of Energy to study the feasibility of developing commercial nuclear energy production facilities at existing Department of Energy sites; and S. 1147, to amend Title X and Title XI of the Energy Policy Act of 1992, 9:30 a.m., SD–366.

July 13, Full Committee, to hold hearings on proposals related to energy efficiency, including S. 552, the Energy Emergency Response Act of 2001; Title XIII of S. 597, the Comprehensive and Balanced Energy Policy Act of 2001; Sections 602–606 of S. 388, the National Energy Security Act of 2001; S. 95, the Federal Energy Bank Act; and S.J. Res. 15, providing for congressional disapproval of the rule submitted by the Department of Energy relating to the postponement of the effective date of energy conservation standards for central air conditioners, 9:30 a.m., SD–366.

Committee on Finance: July 10, to hold hearings to examine the role of tax incentives in energy policy, 10 a.m., SD–215.

July 11, Full Committee, to continue hearings to examine the role of tax incentives in energy policy, 10 a.m., SD–215.

Committee on Foreign Relations: July 10, business meeting to consider pending nominations, 2:15 p.m., S–116, Capitol.

July 10, Full Committee, to hold hearings on the nomination of Lori A. Forman, of Virginia, to be Assistant Administrator for Asia and the Near East, United States Agency for International Development, 2:45 p.m., SD–419.

July 11, Full Committee, to hold hearings on the nomination of Aubrey Hooks, of Virginia, to be Ambassador to the Democratic Republic of the Congo; and the nomination of Donald J. McConnell, of Ohio, to be Ambassador to the Republic of Sierra Leone; the nomination of Nancy J. Powell, of Iowa, to be Ambassador to the Republic of Ghana; and the nomination of George McDade Staples, of Kentucky, to be Ambassador to the Republic of Cameroon, and to serve concurrently and without additional compensation as Ambassador to the Republic of Equatorial Guinea, 3 p.m., SD–419.

July 12, Full Committee, business meeting to consider pending calendar business, 4 p.m., S–116, Capitol.

Committee on Governmental Affairs: July 11, business meeting to consider the nomination of Othoneil Armendariz, of Texas, to be a Member of the Federal Labor Relations Authority; and the nomination of Kay Coles James, of Virginia, to be Director of the Office of Personnel Management, 9 a.m., SD–342.

July 11, Full Committee, to hold hearings on S. 803, to enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, 9:30 a.m., SD–342.

Committee on Health, Education, Labor, and Pensions: July 11, to hold hearings to examine the achievement of parity for mental health services, 10 a.m., SD–430.

Select Committee on Intelligence: July 11, to hold closed hearings on intelligence matters, 2:30 p.m., SH–219.

House Chamber

Tuesday, consideration of suspensions:
(1) H. Con. Res. 170, encouraging corporate contributions to faith-based organizations;
(2) H. Con. Res. 168, expressing concern for victims of torture;
(3) H.R. 2131, Tropical Forest Conservation Act Reauthorization;
(4) H.R. 1850, Senior Housing Commission Extension; and

Wednesday and the balance of the week:
Complete consideration of H.R. 2330, FY 2002 Agriculture Appropriations Act;
Consideration of H.J. Res. 36, Flag Protection Constitutional Amendment (subject to a rule);
Consideration of H.R. 2131, Tropical Forest Conservation Act Reauthorization.

House Committees

Committee on Appropriations: July 10, to mark up the following appropriations for fiscal year 2002: Commerce, Justice, State, and Judiciary; and the Foreign Operations, Export Financing and Related Programs, 5:30 p.m., 2359 Rayburn.

July 10, Subcommittee on VA, HUD and Independent Agencies, to mark up appropriations for fiscal year 2002, 3 p.m., H–140 Capitol.

July 11, Subcommittee on Treasury, Postal Service and General Government, to mark up appropriations for fiscal year 2002, 9 a.m., 2358 Rayburn.

July 12, Subcommittee on Defense, on the Secretary of Defense, 9:30 a.m., 2359 Rayburn.

Committee on Armed Services: July 11 and 12, hearings on the Fiscal Year 2002 National Defense Authorization Budget request, 10 a.m., on July 11, and 9:30 a.m., on July 12, 2118 Rayburn.


July 11, Subcommittee on Military Readiness, hearing on the Fiscal Year 2002 National Defense Authorization Budget request, 1:30 a.m., 2212 Rayburn.

July 12, Subcommittee on Procurement and the Subcommittee on Research and Development, joint hearing on the Fiscal Year 2002 National Defense Authorization Budget request, 2 p.m., 2118 Rayburn.


**Committee on the Budget.** July 11, hearing on the Department of Defense Budget Priorities for Fiscal Year 2002, 10 a.m., 210 Cannon.

**Committee on Education and the Workforce.** July 11, Subcommittee on 21st Century, to mark up H.R. 1992, Internet Equity and Education Act of 2001, 10:30 a.m., 2175 Rayburn.

**Committee on Energy and Commerce.** July 10, Subcommittee on Energy and Air Quality, to mark up the Energy Advancement and Conservation Act of 2001, 4 p.m., 2123 Rayburn.


July 12, Subcommittee on Financial Institutions and Consumer Credit, hearing on H.R. 1701, Consumer Rental Purchase Agreement Act, 10 a.m., 2128 Rayburn.

July 12, Subcommittee on Oversight and Investigations, hearing on Internet Gambling, 2 p.m., 2128 Rayburn.

**Committee on Government Reform.** July 10, Subcommittee on National Security, Veterans’ Affairs and International Relations, hearing on Biological Weapons Convention Protocol: Status and Implications, 2 p.m., 2154 Rayburn.

**Committee on International Relations.** July 11, hearing on Export Administration Act: The Case for Its Renewal (Part III), 10:15 a.m., 2172 Rayburn.

July 11, Subcommittee on Europe, hearing on The Balkans: What Has Been Accomplished; What is the Agenda for the Next Five Years? 1:30 p.m., 2172 Rayburn.

July 11, Subcommittee on International Operations and Human Rights, hearing on Religious Discrimination in Western Europe, 1:30 p.m., 2200 Rayburn.

July 12, Subcommittee on Africa, hearing on African Crisis Response Initiative: A Security Building Block, 10 a.m., 2200 Rayburn.

July 12, Subcommittee on Western Hemisphere, hearing on the Importance of the Free Trade Area of the Americas (FTAA) to U.S. Foreign Policy, 10 a.m., 2172 Rayburn.

**Committee on Resources.** July 11, hearing on the Energy Security Act, 10 a.m., 1324 Longworth.

July 12, Subcommittee on Fisheries Conservation, Wildlife and Oceans and the Subcommittee on Research and the Subcommittee on Environment, Technology and Standards of the Committee on Science, joint hearing on ocean exploration, and the development and implementation of coastal and ocean observing systems, 1 p.m., 2318 Rayburn.

**Committee on Rules.** July 11, to consider H.J. Res. 36, proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, 3 p.m., H–313 Capitol.

**Committee on Science.** July 12, Subcommittee on Space and Aeronautics, hearing on Life in the Universe, 10 a.m., 2318 Rayburn.

**Committee on Small Business.** July 11, hearing on “The Regulatory Morass at the Centers for Medicare and Medicaid Services: A Prescription for Bad Medicine,” 10 a.m., 2360 Rayburn.

**Committee on Transportation and Infrastructure.** July 11, Subcommittee on Aviation, oversight hearing on the GAO Report on the FAA Rulemaking Process, 2 p.m., 2167 Rayburn.

July 11, Subcommittee on Water Resources and Environment, hearing on H.R. 1070, Great Lakes Legacy Act of 2001, 10 a.m., 2167 Rayburn.

July 12, Subcommittee on Highways and Transit, oversight hearing on the Household Goods Moving Industry, 10 a.m., 2167 Rayburn.

**Committee on Veterans’ Affairs.** July 10, Subcommittee on Benefits, hearing on the following bills: H.R. 862, to amend title 38, United States Code, to add Diabetes Mellitus (Type 2) to the list of diseases presumed to be service-connected for veterans exposed to certain herbicide agents; H.R. 1406, Gulf War Undiagnosed Illness Act of 2001; H.R. 1435, Veterans Emergency Telephone Service Act of 2001; H.R. 1746, to amend title 38, United States Code, to require that the Secretary of Veterans Affairs establish a single 1–800 telephone number for access by the public to veterans benefits counselors; H.R. 1929, Native American Veterans Home Loan Act of 2001; H.R. 2359, to amend title 38, United States Code, to authorize the payment of National Service Life Insurance and United States Government Life Insurance proceeds to an alternate beneficiary; and H.R. 2361, Veterans Compensation Cost-of-Living Adjustment Act of 2001, 10 a.m., 334 Cannon.

July 12, Subcommittee on Benefits, to mark up pending legislation, 10:30 a.m., 334 Cannon.

**Committee on Ways and Means.** July 10, Subcommittee on Trade, hearing on Renewal of Normal Trade Relations with China, 2 p.m., B–318 Rayburn.

July 11, to mark up H.R. 7, Community Solutions Act of 2001, 1:15 p.m., 1100 Longworth.

July 11, Subcommittee on Human Resources, hearing on the Administration’s Budget Proposals, 10:30 a.m., B–318 Rayburn.

July 12, Subcommittee on Oversight, hearing on Taxpayer Advocate Report and Low-Income Taxpayer Clinics, 4 p.m., 1100 Longworth.
Résumé of Congressional Activity

FIRST SESSION OF THE ONE HUNDRED SEVENTH CONGRESS

The first table gives a comprehensive résumé of all legislative business transacted by the Senate and House. The second table accounts for all nominations submitted to the Senate by the President for Senate confirmation.

### DATA ON LEGISLATIVE ACTIVITY

**January 3 through June 30, 2001**

<table>
<thead>
<tr>
<th></th>
<th>Senate</th>
<th>House</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Days in session</td>
<td>92</td>
<td>69</td>
<td></td>
</tr>
<tr>
<td>Time in session</td>
<td>656 hrs., 46'</td>
<td>378 hrs., 36'</td>
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<tr>
<td>Congressional Record:</td>
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<td>Pages of proceedings</td>
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<td>Extensions of Remarks</td>
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<tr>
<td>Public bills enacted into law</td>
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<td>Private bills enacted into law</td>
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<tr>
<td>Bills in conference</td>
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<tr>
<td>Measures passed, total</td>
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<td>228</td>
<td>370</td>
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<td>Senate bills</td>
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<td>House bills</td>
<td>13</td>
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<td>Simple resolutions</td>
<td>66</td>
<td>90</td>
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<tr>
<td>Measures reported, total</td>
<td>*67</td>
<td>*116</td>
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<td>Simple resolutions</td>
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<td>Special reports</td>
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<td>Measures pending on calendar</td>
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<td>14</td>
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<td>Measures introduced, total</td>
<td>1,347</td>
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<td>Bills</td>
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<td>Concurrent resolutions</td>
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<td>Simple resolutions</td>
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<td>Recorded votes</td>
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<tr>
<td>Bills vetoed</td>
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<tr>
<td>Vetoes overridden</td>
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</tbody>
</table>

*These figures include all measures reported, even if there was no accompanying report. A total of 36 reports have been filed in the Senate, a total of 121 reports have been filed in the House.

### DISPOSITION OF EXECUTIVE NOMINATIONS

**January 3 through June 30, 2001**

Civilian Nominations, totaling 379, disposed of as follows:
- Confirmed .......................................................... 133
- Unconfirmed ......................................................... 182
- Withdrawn .......................................................... 64

Other Civilian Nominations, totaling 1,362, disposed of as follows:
- Confirmed .......................................................... 1,005
- Unconfirmed ......................................................... 357

Air Force Nominations, totaling 4,584, disposed of as follows:
- Confirmed .......................................................... 4,536
- Unconfirmed ......................................................... 48

Army Nominations, totaling 4,263, disposed of as follows:
- Confirmed .......................................................... 2,584
- Unconfirmed ......................................................... 1,679

Navy Nominations, totaling 2,769, disposed of as follows:
- Confirmed .......................................................... 408
- Unconfirmed ......................................................... 2,361

Marine Corps Nominations, totaling 2,449, disposed of as follows:
- Confirmed .......................................................... 2,428
- Unconfirmed ......................................................... 21

**Summary**
- Total Nominations Received this Session .............................. 15,806
- Total Confirmed .......................................................... 11,094
- Total Unconfirmed ......................................................... 4,648
- Total Withdrawn .......................................................... 64
- Total Returned to the White House ....................................... 0
Next Meeting of the SENATE
10 a.m., Tuesday, July 10

Senate Chamber

Program for Tuesday: Senate will continue consideration of S. 1077, Supplemental Appropriations.

(Senate will recess from 12:30 p.m. until 2:15 p.m. for their respective party conferences.)

Next Meeting of the HOUSE OF REPRESENTATIVES
2 p.m., Tuesday, July 10

House Chamber

Program for Tuesday: Consideration of suspensions:

1. H. Con. Res. 170, encouraging corporate contributions to faith-based organizations;
2. H. Con. Res. 168, expressing concern for victims of torture;
3. H.R. 2131, Tropical Forest Conservation Act Reauthorization;
4. H.R. 1850, Senior Housing Commission Extension; and

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