S. 2547

At the request of Mr. BINGAMAN, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2547, a bill to amend title XVIII of the Social Security Act to provide for fair payments under the medicare hospital outpatient department prospective payment system.

S. 2583

At the request of Mrs. CLINTON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2583, a bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs in the management of health care services for veterans to place certain low-income veterans in a higher health-care priority category.

S. 2613

At the request of Mr. LIEBERMAN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2613, a bill to amend section 507 of the Omnibus Parks and Public Lands Management Act of 1996 to authorize additional appropriations for historically black colleges and universities, to decrease the cost-sharing requirement relating to the additional appropriations, and for other purposes.

S. 2645

At the request of Mrs. FEINSTEIN, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 2645, a bill to establish the Director of National Intelligence as head of the intelligence community, to modify and enhance authorities and responsibilities relating to the administration of intelligence and the intelligence community, and for other purposes.

S. 2674

At the request of Mr. BROWNBACK, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 2674, a bill to improve access to health care medically underserved areas.

S. 2793

At the request of Mr. ENSIGN, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 2793, a bill to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

S. 2816

At the request of Mr. BAUCUS, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 2816, a bill to amend the Internal Revenue Code of 1986 to improve tax equity for military personnel, and for other purposes.

S. 2869

At the request of Mr. KERRY, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. 2869, a bill to facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers.

S. 2969

At the request of Mr. CRAIG, his name was added as a cosponsor of S. 2969, a bill to provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes.

S. 2990

At the request of Mr. BINGAMAN, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 2990, a bill to provide for programs and activities to improve the health of Hispanic individuals, and for other purposes.

S. 3013

At the request of Mr. KYL, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 3013, a bill to amend the Balanced Budget Act of 1997 to extend and modify the reimbursement of State and local funds expended for emergency health services furnished to undocumented aliens.

S. 3018

At the request of Mr. BAUCUS, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Arizona (Mr. KYL), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 3018, a bill to amend title XVIII of the Social Security Act to enhance beneficiary access to quality health care services under the medicare program, and for other purposes.

S. RES. 270

At the request of Mr. CAMPBELL, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. Res. 270, a resolution designating the week of October 13, 2002, through October 19, 2002, as ''National Cystic Fibrosis Awareness Week.''

S. RES. 307

At the request of Mr. TORRICELLI, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Res. 307, a resolution reaffirming support of the Convention on the Prevention and Punishment of the Crime of Genocide and anticipating the commemoration of the 15th anniversary of the enactment of the Genocide Convention Implementation Act of 1987 (the Proxmire Act) on November 4, 2003.

S. RES. 321

At the request of Mr. CAMPBELL, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. Res. 321, a resolution commemorating the 30th Anniversary of the Founding of the American Indian Higher Education Consortium (AIHEC).

S. CON. RES. 142

At the request of Mr. SMITH of Oregon, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Washington (Ms. CANTWELL), the Senator from Illinois (Mr. DURBIN), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Maryland (Mr. SARBANES), the Senator from New York (Mr. SCHUMER) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. Con. Res. 142, a concurrent resolution expressing support for the goals and ideas of a day of tribute to all firefighters who have died in the line of duty and recognizing the important mission of the Fallen Firefighters Foundation in assisting family members to overcome the loss of their fallen heroes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SESSIONS (for himself, Mr. LEAHY, and Mr. GRASSLEY):

S. 3028. A bill to provide for a creditors' committee of employee and retiree representatives of a debtor in order to protect pensions of those employees and retirees; to the Committee on the Judiciary.

Mr. SESSIONS. Mr. President, I rise today to introduce the Employee Pension Bankruptcy Protection Act of 2002. Today, when a company declares bankruptcy, it is often the employees and retirees who suffer. They suffer because they often lose their hard earned pensions and retirement benefits during the bankruptcy process. This is simply not right. When Americans lose the pensions and benefits that they have worked a lifetime to earn, it is the responsibility of the members of this body to act to protect them.

Under current law, the pension fund is technically the ''creditor'' of the corporation, not the employees and retirees. Thus, in court, employees and retirees of a bankrupt corporation have their interests in their pensions represented by the pension plan trustee. If the pension fund itself is threatened with insolvency, the Pension Benefit Guaranty Corporation, PBGC, can step in. While PBGC often covers most of the pension obligation, the statutory limits can sometimes leave a significant amount of pension benefits unpaid. If employees and retirees are not satisfied with how the pension plan trustee or PGGC is representing their interests, current law provides no relief. There is no day in court for the people who earned the pensions in the first place.

This problem has only recently been brought to my attention by Mr. John Nichols of Gadsden, AL, and his son, Phil, an attorney in Birmingham. The orderal faced by Mr. Nichols is a prime example of why employees and retirees need more representation before the bankruptcy court. Mr. Nichols spent his entire career at a steel plant in Gadsden. He began working for Republic Steel in 1956 and stayed with the operation through a buyout by LTV Steel and two subsequent ownership changes.

When LTV bought out Mr. Nichols' employer, LTV Steel took over the

monthly pension payments guaranteed to the former employees and retirees of Republic Steel, including Mr. Nichols. Soon after the takeover, however, LTV filed for bankruptcy, claiming that it could no longer make pension payments to Republic Steel's former employees. PBGC, initially stepped in to help make a small part of the pension payments, but LTV eventually stopped making payments at all.

Because all the payments LTV had been making were not guaranteed by the PBGC, the long awaited pension payments earned by Mr. Nichols and by Republic Steel's other loyal employees were severely reduced. Mr. Nichols' pension payments went from approximately $2,225 per month to approximately $675 per month—only 30 percent of what he had been promised. A third of this payment now covers Mr. Nichols' health insurance premium that he can no longer purchase through LTV, leaving him with only 20 percent of his promised pension each month.

Because PBGC could only pay the retirees the amount the statute allowed, and because no one had the responsibility of telling bankruptcy court what was happening to the retirees of Republic Steel, large portions of hard earned pensions were lost. PBGC itself recognized that the claims of the pensioners against LTV, ''are among the many claims that will probably never be paid, except perhaps in cents on the dollar'' and stated that PBGC's claims against LTV for the pension plan underfunding were perhaps ''[t]he largest of these claims [that will go upaid].''

During LTV's bankruptcy case, various creditors were represented before the bankruptcy court, but not the employees and retirees. Thus, when the assets of LTV were divided among its creditors, employees and the retirees were not at the table. If the employees and retirees had had an opportunity to make their case before the bankruptcy judge, the result could have been different for Mr. Nichols and for the other employees of Republic Steel.

The bill I introduce today does one very simple thing, it gives employees and retirees the right to be heard before the bankruptcy court with respect to their pensions. Under this bill, a representative of the employee and retirees can appear and be heard if it is likely that the employee benefit pension plan of the bankrupt corporation will be terminated or substantially underfunded and if it is possible that the beneficiaries of the plan will be adversely affected.

By allowing employees and retirees to be hard before the bankruptcy court, we will ensure that the bankruptcy court hears from the people who earned the pensions before it disposes of the assets that could pay those pensions. Employees and retirees will be able to argue to the court that any division of assets or bankruptcy plan must be fair to the pensioners. The needs of the corporation's employees and retirees should be heard before the assets of a bankrupt corporation are split up among creditors and gone forever. They deserve to have their day in court.

The Employee Pension Bankruptcy Protection Act of 2002 seeks to make sure that what happened to the retirees of Republic Steel in Gadsden, Alabama, will never happen again. By passing this legislation we can ensure that employees and retirees will never be deprived of their pensions without having their day in court. While a company may still be able to discharge its obligation to pay pensioners in bankruptcy, this bill at least takes the first modest step to protection pensions by providing them the opportunity to be part of the bankruptcy bargaining process. Before the bankruptcy court sells assets or adopts a plan of reorganization, the employees and retirees will be heard with respect to their pensions. This is only fair.

I strongly urge my colleagues in the Senate to support this bill and to work with me to further ensure that employees and retirees of corporations are fairly treated and protected under the United States Bankruptcy Code.

By Mr. KENNEDY:

S. 3029. A bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of accidental medical injury; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, I am pleased to introduce today ''The Patient Safety Improvement and Medical Injury Reduction Act.'' This legislation will protect patients and save lives. It will do more for public health than a breakthrough new drug or a new therapy for deadly disease. The bill does this by providing a comprehensive plan to greatly reduce medical errors, promote a culture of greater patient safety and provider accountability, and improve the quality of medical care in the United States.

As the Institute of Medicine, IOM, concluded in its landmark 1999 study, medical errors kill up to 98,000 people in U.S. hospitals every year. That means that more Americans die from medical mistakes each year than from AIDS, breast cancer or highway accidents. In fact, each day, more than 250 people die because of medical mistakes, the equivalent of a major airplane crash every day.

Other studies support the IOM's shocking conclusions.

A Commonwealth Fund survey this year found that 22 percent of respondents reported that they or a family member had experienced a medical error of some kind. About 10 percent reported that they or a family member grew sicker as a result of a mistake made at a doctor's office or in a hospital, and 16 percent were given the wrong medication or wrong dose when filling a prescription at a pharmacy or while hospitalized.

A study published September 9 by the Archives of Internal Medicine also concluded that medication errors occur in one of every five does administered to hospital patients. The magnitude of these costly and life-threatening mistakes is astonishing, and calls for immediate improvement.

We can and should do better for our citizens. Americans deserve the highest quality health care, yet these errors put everyone at risk of unnecessary harm. This legislation raises patient safety to the national priority it deserves, and assures America's patients that they can expect high quality health care when they are sick or injured.

To accomplish this goal, or legislation requires comprehensive action. The IOM concluded that improvements will require sweeping, systemic changes in our health care system. IOM made numerous, sensible recommendations, which are fully addressed by the Patient Safety Improvement and Medical Injury Reduction Act.

The overwhelming majority of errors are caused by flaws in the health care system, not the outright negligence of individual doctors and nurses. Our hospitals, doctors, nurses, and other health care providers want to do the right thing. The bill gives the health care community the tools to identify the causes of medical errors, the resources to develop strategies to prevent them, and the encouragement to implement those solutions.

A key concern addressed by this legislation is to allow doctors and other health professionals to share information regarding best practices and lessons learned from their mistakes without fear of winding up in court. At the same time, medical professionals and hospitals that injure patients through their negligence should still be held accountable in court, just as they are today.

To balance these competing concerns, our legislation allows reports and analyses created under a new system of information-sharing between providers, patient safety organizations and a newly established National Patient Safety Database, to be immune from legal discovery. Health care professionals who submit reports to the programs would also be protected against discrimination in the workplace for participating in the reporting systems.

By the same token, however, this new system will not become a shield to hide medical negligence. As a result, this legislation continues current law when it comes to those elements of patients' medical records that have nothing to do with the patient safety improvements contemplated by the Act. Nor would the privilege apply to such information merely because it is reported to a patient safety organization or the National Patient Safety Database. Just as importantly, the new privilege would not affect compliance with State accountability systems.

Consistent with the IOM recommendations, the Act also creates a new Center for Quality Improvement and Patient Safety in the Agency for Healthcare Research and Quality to promote patient safety. The Center would conduct and support research on medical errors, certify learning-based patient safety organizations around the country, administer the voluntary National Patient Safety Database, and disseminate evidence-based practices and other error reduction and prevention strategies to health care providers, purchasers and the public. Reports submitted would be analyzed to identify systemic faults that led to the errors and solutions to prevent future similar errors. The Act would also create a ''learning laboratory'' under the Center for focused study of errors and their correction in select health care facilities.

The IOM also highlighted medication errors as a ''high priority area for all health care organizations'' and recommended the use of computerized physician order entry systems and advanced prescribing software to screen for inappropriate doses, allergies, and drug interactions. The Act would provide funding and uniform standards for the implementation of such systems, as well as grants for community partnerships for health care improvement.

As widespread and serious as the problem of medical errors is, it can be solved by a national commitment of resolve and resources. Improvements are clearly possible. The field of anesthesia undertook such an effort almost twenty years ago. Today, the number of fatalities from errors in administering anesthesia has dropped 98 percent.

Our goal should be to achieve equal or even greater success in reducing other types of medical mistakes. This legislation lays the foundation to achieve this goal. I look forward to working with my colleagues and with interested Members of the House of Representatives in enacting the Patient Safety Improvement and Medical Injury Reduction Act.

By Mr. DEWINE (For himself and Mr. VOINOVICH):

S. 3030. A bill to designate the Federal building and United States courthouse located at 200 West 2d Street in Dayton, Ohio, as the ''Tony Hall Federal Building and United States Courthouse''; to the Committee on Environment and Public Works.

Mr. DEWINE. Mr. President, I rise today, along with my friend and colleague from Ohio, Senator VOINOVICH, to introduce a bill to name the federal building in Dayton, OH, after Congressman TONY HALL.

This bill is a fitting tribute to TONY HALL, a tireless and dedicated public servant, who will be greatly missed in the United States Congress upon his retirement. I am confident that he will continue his commitment to public service as our U.S. Ambassador to the U.N.'s food and agriculture agencies.

The people of Ohio and the American people can be proud of and thankful for the many years TONY HALL has served in the United States Congress. I've had the privilege of working closely with him since my early days in the House nearly 20 years ago. He has been a valuable legislator and a real statesman. Over the years, he has worked tirelessly on behalf of the people of Montgomery County and throughout Ohio.

TONY HALL comes from a family rich in devotion to public service and dedication to Ohio. His father, in fact, once served as Dayton's Republican mayor. A graduate of Fairmont High School in Kettering and Denison University in Granville, where he was an all-star tailback on the football team, TONY served in the Ohio House from 1969–1972, in the Ohio Senate from 1973–1978, and as Dayton's Congressman since January 1979.

A devoted husband to his wife, Janet, and a dedicated father to Jyl and Matt, the entire HALL family struggled valiantly alongside Matt as he fought an unsuccessful battle against leukemia that ended in 1996.

My wife, Fran, and I are proud to have worked over two decades with TONY and Janet on humanitarian efforts and other causes that bridge across the political aisle. TONY, who served in the Peace Corps in 1966 and 1967, has been an unmatched advocate for the needy, the poor, the hungry, and the oppressed across Ohio, our Nation, and the world.

TONY has been singularly responsible for much of the world's continued, focused attention on the serious hunger issues worldwide. His involvement in a 22-day hunger strike in 1989, forced the Department of Agriculture and the World Bank to call conferences on hunger, which ultimately resulted in the creation of the Congressional Hunger Center.

I'm proud to have worked with TONY on several humanitarian initiatives through the years from Africa Seeds of Hope to the Global Food for Education Act to the Microenterprise for Self-Reliance Act to the Clean Diamond Act of 2001.

We also share a commitment to the yet unborn. A staunch pro-life Democrat, Congressman HALL was responsible for language in the Democratic National Committee platform respecting the beliefs of those within his party who wished to protect the sanctity of life.

I also have had the pleasure of working with TONY HALL on several projects important to the Miami Valley area of Ohio. We share a passion for the aviation heritage of the Wright Brothers in Dayton and have worked together to protect and preserve the monuments to the Wright Brothers legacy. And, we've also worked together on issues to build the unique resources of Wright Patterson Air Force base, as well.

Today, it is a pleasure to take this opportunity to join Senator VOINOVICH to honor TONY HALL's many legislative efforts and achievements and to thank him for his commitment to the people of Ohio and this Nation. I urge my colleagues to support this bill to honor our good friend and statesman, TONY HALL.

I ask unanimous consent that the text of the bill to designate the Federal building and United States courthouse located at 200 West 2nd Street in Dayton, Ohio, as the ''Tony Hall Federal Building and United States Courthouse'' be printed in the RECORD.

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

S. 3030

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

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 200 West 2d Street in Dayton, Ohio, shall be known and designated as the ''Tony Hall Federal Building and United States Courthouse''.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the ''Tony Hall Federal Building and United States Courthouse''.

By Mr. BAUCUS (for himself, Mr. CRAPO, Mr. WARNER, and Mr. CRAIG):

S. 3031. A bill to amend title 23, United States Code, to reduce delays in the development of highway and transit projects, and for other purposes; to the Committee on Environment and Public Works.

Mr. BAUCUS. Mr President, I rise today to introduce the MEGA STREAM ACT. Maximizing Economic Growth for America through Environmental Streamlining.

Moving goods and moving people is what this Nation's transportation system is all about. The backbone of our economy. But delays in completing transportation projects threaten our economy.

These delays add to the cost of projects and deny the public the benefits of the projects. And those benefits are substantial, improving our economy, our competitiveness, and our quality of life. Unfortunately, there are delays for many projects, not only for controversial or complex projects, and those delays sometimes result from the environmental review process.

My goal is to advance a common sense approach that will both strengthen our transportation system and support for our environmental laws.

I doubt that there is a member in this chamber that has not heard complaints about delays in developing transportation projects.

I was privileged to be one of the authors of TEA 21 a revolutionary transportation law. I helped write sections 1308 and 1309. These are the sections that direct the Secretary of Transportation to find ways to expedite the

project approval process and get construction underway faster.

I remember working with Senators WARNER, GRAHAM, WYDEN and CHAFEE and with the House members to come to a compromise on the environmental streamlining provisions included in TEA 21.

At the time, I had heard from my Department of Transportation and from others about how cumbersome a process it is to come to completion on a highway project. Everyone who worked on TEA 21 both the House and Senate, wanted to include a direction to the USDOT to streamline the planning and project development processes for the states.

We were very clear, the environment and the environmental reviews should NOT get short shrift! But, we needed to find a way to make it easier to get a project done, eliminate unnecessary delays, move faster and with as little paperwork as possible.

I cannot over-emphasize that the planning and environmental provisions of TEA–21 need to be implemented in a way that will streamline and expedite, not complicate, the process of delivering transportation projects.

These projects that we're trying to expedite provide good paying jobs for the folks in Montana and for every State. Contracts must be met in a timely manner.

That is why Congress directed the USDOT to include certain elements in their regulations on streamlining.

We included concepts to be incorporated—like concurrent environmental reviews by agencies and reasonable deadlines for the agencies to follow when completing their reviews.

Certainly we did not legislate an easy task to the USDOT. Trying to coordinate so many separate agencies is like trying to herd cats.

The whole concept of environmental streamlining, that is, to make the permit and approval process work more smoothly and effectively, while still ensuring protection of the environment, is one of the more-difficult challenges of TEA–21.

So I waited for the rules to come out. And waited. And two years after the passage of TEA–21 I finally got them.

I have to tell you, I was very disappointed when those rules came out in May of 2000. I believe those regulations hit very far from the mark.

Those regulations were supposed to help the State DOTS get their jobs done better and more efficiently—not make their jobs harder.

They were supposed to answer questions—but what is contained in those documents raises even more questions than before because they were vague where they needed to be precise.

Those proposed rules would make it even harder, if not impossible to come to a decision.

It would have been even more difficult for States to deliver their programs. Contracts wouldn't get met and jobs would be lost.

So the DOT solicited comments, which I understand were overwhelmingly negative, and went back to the drawing board and we never heard from them again. Even when a new President took over. New administration. No new rules.

And today we have nothing. We're exactly where we were in 1998.

As for sections 1308 and 1309. Nothing has been done to implement them. Its just as cumbersome today to bring a highway project to completion.

The Senate Environment and Public Works Committee held 4 hearings on the subject of environmental streamlining since the passage of TEA 21 in 1998.

A few weeks ago, on the eve of the fourth EPW hearing, the President signed an Executive Order calling for a handful of projects to be supervised by the heads of USDOT and CEQ. The highest levels would personally make sure that there were timely environmental reviews.

That would have been a good start in 1998. But, its too little too late now.

We are on the verge of reauthorization of TEA 21. This time, I would like to see us specifically legislate environmental streamlining. No waiting for regulations or more executive orders. Congress needs to be clear about what they want to see and put it into law.

To that end, along with Senator CRAPO and others, I am introducing a proposal on environmental streamlining. It is part of a series of bills that we are introducing on highway reauthorization.

This bill will address three issues.

First, the USDOT needs to be the lead agency on at least two requirements, ''Purpose and Need'' for a project and ''Scope of Alternatives.'' This will make sure that any stalemates are resolved quickly.

Second, we should allow States to take over the role of the USDOT if they can meet certain requirements and if they choose to take on that role. This will eliminate another step of bureaucracy.

Last, we must ensure that resource agencies act in a timely manner. When it comes time for an agency like Fish and Wildlife to assess the extent of damage (if any) to a wetlands or the Army Corps of Engineers to issue a permit, these agencies shouldn't be able to take years to make these decisions.

We need to legislate specific time limits for them to follow. No answer at all is not acceptable. It is unacceptable for agencies to sit on their decision for years. We can't make them issue the permit and we don't want to, but we can make them make a decision in a timely manner.

The rest of the world works on deadlines. They can too.

These three things will help to expedite the planning and project development processes.

These three things are not meant to be comprehensive streamlining, but I believe that they will be a big help and a great start. The bill we will introduce will be a solid beginning to Congress setting some specific guidelines for expediting the planning and environmental review processes.

Once again, I want to reiterate that I want to make sure that environmental laws and policies are obeyed to the letter. But, there's got to be a faster, easier way to do the work that needs to be done on our surface transportation system, while continuing to protect the environment.

I believe our bill will be a means to those ends.

By Mr. SARBANES (for himself, Mr. DEWINE, Mrs. CLINTON, Mr. DODD, and Mr. KERRY):

S. 3032. A bill to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for the poorest people in developing countries under microenterprise assistance programs under those Acts, and for other purposes; to the Committee on Foreign Relations.

Mr. SARBANES. Mr. President, I rise to introduce legislation to amend the Microenterprise for Self-Reliance Act of 2000 and the Foreign Assistance Act of 1961 to increase assistance for poor people in developing countries under microenterprise assistance programs. I am joined in this effort by my colleagues, Senator DEWINE of Ohio, Senator CLINTON of New York, Senator DODD of Connecticut, and Senator KERRY of Massachusetts.

Microenterprises play a critical role in helping poor people the world over raise their incomes, build assets, start new businesses, and improve their lives. Access to microenterprise loans and services with the attendant obligations allows poor people to establish good credit, engage in commerce, and begin to lift themselves out of poverty. The U.S. Government has been the leading donor for microenterprise development over the past two decades. In collaboration with diverse partner institutions like PVOs, private voluntary organizations, U.S. support, primarily through USAID, for microenterprise activities enables over 2 million people throughout the developing world to have access to microfinance services.

The legislation I am introducing today authorizes $175 million in fiscal year 03 and $200 million in fiscal year 04 for microenterprise assistance, an increase over the $155 million authorization level in fiscal year 02.

The other provisions of this legislation include a reaffirmation of the provision in the Microenterprise for Self-Reliance Act of 2000 stipulating that 50 percent of all microenterprise assistance shall be targeted to the very poor. The term ''very poor'' has been defined in the new legislation as those living in the bottom 50 percent below the poverty line established by their respective national governments, or on less

than $1 a day. The legislation also provides that the microenterprise programs should target both rural and urban poor.

Ensuring that 50 percent of all microenterprise assistance is targeted to the very poor has been problematic. This legislation calls for the adoption of a monitoring system using proven effective poverty assessment tools to identify more precisely the very poor and ensure that they receive microenterprise loans, savings, and assistance authorized under this act. The legislation also stipulates that the USAID Administrator, in consultation with microenterprise institutions and other appropriate organizations, shall develop no fewer than two low-cost methods for partner institutions to use to assess the poverty levels of their current or prospective clients. By October 1, 2004, USAID shall certify that no fewer than two of such methods are being used for measuring poverty levels of current or prospective clients. Additionally, the legislation says that USAID, beginning no later than October 1, 2005, shall require all microenterprise organizations applying for U.S. assistance to use one of these methods.

Finally, the legislation requires the USAID Administrator to submit a report to Congress, no later than September 30, 2005, on the development and application of the poverty assessment procedures and, beginning with fiscal year 2006, an annual report documenting the percentage of its resources allocated to the very poor, based on the certified methods and the absolute number of the very poor that was reached.

The legislation, which builds on somewhat similar legislation that passed the House earlier this year (H.R. 4073), was the result of many weeks of hard work and negotiations between USAID and the Microenterprise Coalition, a group that represents the microenterprise institutions. Both USAID and the Microenterprise Coalition strongly support this legislation. I commend them for their efforts and I urge the Senate to pass this important legislation.

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

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

S. 3032

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

SECTION 1. AMENDMENTS TO THE MICROENTERPRISE FOR SELF-RELIANCE ACT OF 2000.

(a) PURPOSES.—Section 103 of the Microenterprise for Self-Reliance Act of 2000 (Public Law 106–309) is amended—

(1) in paragraph (3), by striking ''microentrepreneurs'' and inserting ''microenterprise households'';

(2) in paragraph (4), by striking ''and'' at the end;

(3) in paragraph (5)—

(A) by striking ''microfinance policy'' and inserting ''microenterprise policy'';

(B) by striking ''the poorest of the poor'' and inserting ''the very poor''; and

(C) by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(6) to ensure that in the implementation of this title at least 50 percent of all microenterprise assistance under this title, and the amendments made under this title, shall be targeted to the very poor.''.

(b) DEFINITIONS.—Section 104 of such Act is amended—

(1) in paragraph (2), by striking ''for microentrepreneurs'' and inserting ''to microentrepreneurs and their households''; and

(2) by adding at the end the following:

''(5) VERY POOR.—The term 'very poor' means individuals—

''(A) living in the bottom 50 percent below the poverty line established by the national government of the country in which those individuals live; or

''(B) living on the equivalent of less than $1 per day.''.

SEC. 2. AMENDMENTS TO THE MICRO- AND SMALL ENTERPRISE DEVELOPMENT CREDITS PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

(a) FINDINGS AND POLICY.—Section 108(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f(a)(2)) is amended by striking ''the development of the enterprises of the poor'' and inserting ''the access to financial services and the development of microenterprises''.

(b) PROGRAM.—Section 108(b) of such Act (22 U.S.C. 2151f(b)) is amended to read as follows:

''(b) PROGRAM.—To carry out the policy set forth in subsection (a), the President is authorized to provide assistance to increase the availability of financial services to microenterprise households lacking full access to credit, including through—

''(1) loans and guarantees to microfinance institutions for the purpose of expanding the availability of savings and credit to poor and low-income households;

''(2) training programs for microfinance institutions in order to enable them to better meet the financial services needs of their clients; and

''(3) training programs for clients in order to enable them to make better use of credit, increase their financial literacy, and to better manage their enterprises to improve their quality of life.''.

(c) ELIGIBILITY CRITERIA.—Section 108(c) of such Act (22 U.S.C. 2151f(c)) is amended—

(1) in the first sentence of the matter preceding paragraph (1)—

(A) by striking ''credit institutions'' and inserting ''microfinance institutions''; and

(B) by striking ''micro- and small enterprises'' and inserting ''microenterprise households''; and

(2) in paragraphs (1) and (2), by striking ''credit'' each place it appears and inserting ''financial services''.

(d) ADDITIONAL REQUIREMENT.—Section 108(d) of such Act (22 U.S.C. 2151f(d)) is amended by striking ''micro- and small enterprise programs'' and inserting ''programs for microenterprise households''.

(e) AVAILABILITY OF FUNDS.—Section 108(f)(1) of such Act (22 U.S.C. 2151f(f)(1)) is amended by striking ''for each of fiscal years 2001 and 2002'' and inserting ''for each of fiscal years 2001 through 2004''.

(f) CONFORMING AMENDMENT.—Section 108 of such Act (22 U.S.C. 2151f) is amended in the heading to read as follows:

''SEC. 108. MICROENTERPRISE DEVELOPMENT CREDITS.''.

SEC. 3. AMENDMENTS TO THE MICROENTERPRISE DEVELOPMENT GRANT ASSISTANCE PROGRAM UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

(a) FINDINGS AND POLICY.—Section 131(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152a(a)) is amended to read as follows:

''(a) FINDINGS AND POLICY.—Congress finds and declares that—

''(1) access to financial services and the development of microenterprise are vital factors in the stable growth of developing countries and in the development of free, open, and equitable international economic systems;

''(2) it is therefore in the best interest of the United States to facilitate access to financial services and assist the development of microenterprise in developing countries;

''(3) access to financial services and the development of microenterprises can be supported by programs providing credit, savings, training, technical assistance, business development services, and other financial and non-financial services; and

''(4) given the relatively high percentage of populations living in rural areas of developing countries, and the combined high incidence of poverty in rural areas and growing income inequality between rural and urban markets, microenterprise programs should target both rural and urban poor.''.

(b) AUTHORIZATION.—Section 131(b) of such Act (22 U.S.C. 2152a(b)) is amended—

(1) in paragraph (3)(A)(i), by striking ''entrepreneurs'' and inserting ''clients''; and

(2) in paragraph (4)(D)—

(A) in clause (i), by striking ''very small loans'' and inserting ''financial services to poor entrepreneurs''; and

(B) in clause (ii), by striking ''microfinance'' and inserting ''microenterprise''.

(c) MONITORING SYSTEM.—Section 131(c) of such Act (22 U.S.C. 2152a(c)) is amended by striking paragraph (4) and inserting the following:

''(4) adopts the widespread use of proven and effective poverty assessment tools to successfully identify the very poor and ensure that they receive needed microenterprise loans, savings, and assistance.''

(d) DEVELOPMENT AND APPLICATION OF POVERTY MEASUREMENT METHODS.—Section 131 of such Act (22 U.S.C. 2152a) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

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

''(d) DEVELOPMENT AND CERTIFICATION OF POVERTY MEASUREMENT METHODS; APPLICATION OF METHODS.—

''(1) DEVELOPMENT AND CERTIFICATION.—(A) The Administrator of the United States Agency for International Development, in consultation with microenterprise institutions and other appropriate organizations, shall develop no fewer than two low-cost methods for partner institutions to use to assess the poverty levels of their current or prospective clients. The United States Agency for International Development shall develop poverty indicators that correlate with the circumstances of the very poor.

''(B) The Administrator shall field-test the methods developed under subparagraph (A). As part of the testing, institutions and programs may use the methods on a voluntary basis to demonstrate their ability to reach the very poor.

''(C) Not later than October 1, 2004, the Administrator shall, from among the low-cost poverty measurement methods developed under subparagraph (A), certify no fewer than two such methods as approved methods for measuring the poverty levels of current

or prospective clients of microenterprise institutions for purposes of assistance under this section.

''(2) APPLICATION.—The Administrator shall require that, with reasonable exceptions, all organizations applying for microenterprise assistance under this Act use one of the certified methods, beginning no later than October 1, 2005, to determine and report the poverty levels of current or prospective clients.''.

(e) LEVEL OF ASSISTANCE.—Section 131(e) of such Act, as redesignated by subsection (d), is amended by inserting ''and $175,000,000 for fiscal year 2003 and $200,000,000 for fiscal year 2004'' after ''fiscal years 2001 and 2002''.

(f) DEFINITIONS.—Section 131(f) of such Act, as redesignated by subsection (d), is amended by adding at the end the following:

''(5) VERY POOR.—The term 'very poor' means those individuals—

''(A) living in the bottom 50 percent below the poverty line established by the national government of the country in which those individuals live; or

''(B) living on less than the equivalent of $1 per day.''.

SEC. 4. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than September 30, 2005, the Administrator of the United States Agency for International Development shall submit to Congress a report that documents the process of developing and applying poverty assessment procedures with its partners.

(b) REPORTS FOR FISCAL YEAR 2006 AND BEYOND.—Beginning with fiscal year 2006, the Administrator of the United States Agency for International Development shall annually submit to Congress on a timely basis a report that addresses the United States Agency for International Development's compliance with the Microenterprise for Self-Reliance Act of 2000 by documenting—

(1) the percentage of its resources that were allocated to the very poor (as defined in paragraph (5) of section 131(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152a(f)(5))) based on the data collected from its partners using the certified methods; and

(2) the absolute number of the very poor reached.

By Mr. JOHNSON (for himself and Mr. CARPER):

S. 3034. A bill to facilitate check truncation by authorizing substitute checks, to foster innovation in the check collection system without mandating receipt of checks in electronic form, and to improve the overall efficiency of the Nation's payments system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. JOHNSON. Mr. President, I am proud to sponsor the Check Truncation Act, which will be a significant step in improving the Nation's check payment system.

The Act improves America's check payments system by allowing banks to exchange checks electronically. Current law requires banks to physically present and return original checks, a tedious, antiquated and expensive process. This legislation will also reduce infrastructure costs for banks, allowing for more flexibility and greater cost savings for the consumer.

In the days following September 11, 2001, when planes across the country remained grounded, banks were forced to take drastic steps to ensure the shipment of checks from bank to bank. Check payments across the country were delayed, which opened up possibilities for processing errors and fraud. Electronic payments, on the other hand, continued to be processed in a safe and timely fashion during the crisis.

Processing challenges confront banks in my State of South Dakota every winter. Deep snowfalls and vast distances between small-town banks and processing centers add significant costs to physical transportation of checks. These costs trickle down to consumers, and everyone ends up paying the price of our outdated system.

I am proud to introduce this legislation, which would help to ensure the financial stability of our system in the event of another attack, and would increase its efficiency day-to-day. It is the right time to change our banking laws to give electronic versions of checks the same legal validity as paper checks, so America's financial institutions can provide customers with faster check clearing and better access to liquid funds in both good times and times of crisis.

By Mr. HUTCHINSON:

S. 3035. A bill to prohibit the sale of tobacco products through the Internet or other indirect means to underage individuals, to ensure the collection of all cigarette taxes, and for other purposes; to the Committee on the Judiciary.

Mr. HUTCHINSON. Mr. President, today I have introduced legislation to stop the illegal sales of cigarettes over the Internet, an escalating problem which has had a particularly negative effect in my home State of Arkansas. While every State in the union has enacted laws prohibiting minors from purchasing or possessing tobacco products, this law is easily evaded when minors purchase cigarettes over the Internet. Disreputable websites flagrantly break the law, even advertising that they do not check identification.

In the first quarter of 2002, the number of Internet site selling cigarettes had already increased by over 10 percent from 2001, and the number of those based overseas increased almost 20 percent. In addition to putting cigarettes in the hands of minors, these websites also fail to pay the sales and tobacco taxes many states levy on these products.

The Government Accounting Office released a study in August 2002 which reports that by 2005 states will be losing as much as $1.4 billion annually due to this tax evasion. This is revenue states cannot afford to do without. Current federal laws must be updated and strengthened to address this growing threat.

My bill, the Eliminating Profiteering through Illegal Cigarette Sales, EPICS Act, addresses both aspects of the problem. It is designed to both strengthen domestic security by giving law enforcement agencies additional tools they need to choke off this source of terrorist income, and to ensure that legitimate Internet sites selling cigarettes take significant steps to prevent their orders from falling into the hands of our kids.

The EPICS Act prohibits online sales of cigarettes to minors. It also ensures that minors are not able to purchase cigarettes online using a false identification by enacting strict identification verification requirements.

In order to assist states enforcement of age requirements and collection of taxes, this bill will dramatically strengthen the Jenkins Act. This law requires anyone who ships or sells tobacco products over state lines other than to licensed dealers to report those sales to the state tax administrator. When this is done, states can ensure that sales are not being made to minors and that due taxes have been collected.

Currently, there is very little enforcement of the Jenkins Act. This bill remedies this by establishing much harsher penalties for those who do not comply and by allowing a State's Attorney General to enforce the Federal law. Following the recommendation of the GAO, the bill will give the Bureau of Alcohol, Tobacco and Firearms concurrent authority with the Justice Department to enforce the amended Jenkins Act. It also updates the law to make it clear that the Jenkins Act reporting requirements apply to all sales by Internet, mail and phone.

Additionally, this bill will improve current laws to prohibit the trafficking in contraband cigarettes. The EPICS Act lowers the number of unstamped cigarettes required to trigger the law from 60,000 to 2,000, adds reporting requirements and allows a State's Attorney General and Federal tobacco permit holders to bring causes of action to enforce the federal law. With numerous reports of terrorist organizations transporting contraband cigarettes across State lines to reap profits right here in the U.S., it is especially important that this law be effective.

Terrorists and others who seek to profit by illegal means have discovered the goldmine of Internet sales. The number of Internet sites selling untaxed cigarettes or selling to minors is increasing almost daily. Heightened media coverage has pointed out the problem, but also advertised their availability to minors and tax-evaders. I hope my colleagues will act quickly to prevent illegal tobacco profits, keep cigarettes out of the hands of minors and stop tobacco tax evasion.

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

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

S. 3035

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Eliminating Profiteering through Illegal Cigarette Sales Act'' or ''EPICS Act''.

SEC. 2. UNLAWFUL ACTS REGARDING SALE OF TOBACCO PRODUCTS TO UNDERAGE INDIVIDUALS.

(a) IN GENERAL.—It shall be unlawful for any person who is in the business of selling tobacco products, and who advertises such products through the Internet or any other means, to sell a tobacco product to an individual under the legal age (according to State law) to purchase tobacco products if pursuant to the sale the person mails the product or ships the product by carrier in or affecting interstate commerce.

(b) PROCEDURES TO PROTECT AGAINST SALES TO UNDERAGE INDIVIDUALS.—It shall be unlawful for any person in the business of selling tobacco products to take an order for a tobacco product, other than from a person who is in the business of selling tobacco products, through the mail, or through any telecommunications means (including by telephone, facsimile, or the Internet), if in providing for the sale or delivery of the product pursuant to the order the person mails the product, or ships the product by carrier in or affecting interstate commerce, and the person fails to comply with each of the following procedures:

(1) Before mailing or shipping the product, the person receives from the individual who places the order the following:

(A) A copy of a valid government-issued document (whether an operator's permit or otherwise) that provides the name, address, and date of birth of the individual.

(B) A signed statement in writing from the individual providing a certification of the individual that—

(i) such document and information correctly identifies the individual and correctly states the address and date of birth of the individual;

(ii) the individual understands that forging another person's signature to the statement is illegal; and

(iii) the individual understands that tobacco sales to minors are illegal and that tobacco purchases by minors may be illegal under applicable State law.

(2) Before mailing or shipping the product, the person—

(A) verifies the information received from the individual under paragraph (1) against a commercially available database; and

(B) sends a letter to the individual requesting—

(i) confirmation of the order; and

(ii) that the individual reply immediately (to a specified toll-free phone number or e-mail address) if the individual did not submit the order.

(3) In the case of an order for a product pursuant to an advertisement on the Internet, the person receives payment by credit card or check for the order before mailing or shipping the product.

(4) Unless the person is identified as a member of the Armed Forces by the document issued by the Department of Defense identifying individuals as members of the Armed Forces, the person provides for the mailing or shipping of the product to the name and address provided on the government-issued document received under paragraph (1).

(5)(A) The person employs a method of mailing or shipping the product requiring that the individual purchasing the product—

(i) be the addressee;

(ii) personally sign for delivery of the package; and

(iii) if the individual appears to the carrier making the delivery to be under 27 years of age, take delivery of the package only after producing valid, government-issued identification that—

(I) bears a photograph of the individual;

(II) indicates that the individual is not under the legal age to purchase cigarettes; and

(III) indicates that the individual is not younger than the age indicated on the government-issued document received under paragraph (1).

(B) The bill of lading clearly states the requirements in subparagraph (A) and specifies that Federal law requires compliance with the requirements.

(6) The person notifies the carrier for the mailing or shipping, in writing, of the age of the addressee as indicated by the government-issued document received under paragraph (1).

(c) ADVERTISING THROUGH INTERNET; PROMINENT WARNING LABELS.—It shall be unlawful for any person in the business of selling tobacco products to advertise tobacco products for sale through an Internet website to a person other than a person who is in the business of selling tobacco products unless such website contains, on the part of each website page relating to sale of such products that is immediately visible when accessed, prominent and clearly legible warning labels as follows:

(1) A warning label stating that sales of tobacco products to persons under 18 years of age are illegal in all States except Alabama, Alaska, and Utah, where sales of tobacco products to person under 19 years of age are illegal.

(2) A warning label described—

(A) in the case of cigarettes, in subsections (a)(1) and (b)(2) of section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333); and

(B) in the case of smokeless tobacco products, in subsections (a)(1) and (b)(1) of section 3 of the Federal Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402).

(d) ADVERTISING THROUGH INTERNET; ACCESS.—It shall be unlawful for any person in the business of selling tobacco products to advertise such products for sale through an Internet website unless access to the website (other than a nonselling website home page) is provided only to individuals who provide to the person the information described in subparagraphs (A) and (B) of subsection (b)(1) and whose information is verified according to the procedures described in subsection (b)(2).

(e) RULE OF CONSTRUCTION REGARDING COMMON CARRIERS.—This Act may not be construed as imposing liability upon any common carrier, or officers or employees thereof, when acting within the scope of business of the common carrier.

SEC. 3. FEDERAL TRADE COMMISSION.

(a) CIVIL ENFORCEMENT.—For purposes of the enforcement of section 2 by the Federal Trade Commission, a violation of a provision of subsection (a) or (b) of such section shall be deemed to be an unfair or deceptive act or practice in or affecting commerce within the meaning of the Federal Trade Commission Act, and the procedures under section 5(b) of such Act shall apply with respect to such a violation.

(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Commission shall promulgate a final rule for carrying out this Act.

(c) INFORMATION REGARDING STATE LAWS ON MINIMUM PURCHASE-AGE.—The Commission shall post on the Internet site of the Commission information that, by State, provides the minimum age at which it is legal under State law to purchase tobacco products in the State.

SEC. 4. CRIMINAL PENALTIES.

(a) IN GENERAL.—

(1) FIRST VIOLATION.—Except as provided in paragraph (2), any person who violates a provision of subsection (a) or (b) of section 2 shall be fined not more than $1,000.

(2) SUBSEQUENT VIOLATIONS.—In the case of a second or subsequent violation by a person of a provision of subsection (a) or (b) of section 2, the person shall be fined not less than $1,000 and not more than $5,000.

(3) RULE OF CONSTRUCTION.—This subsection does not apply to a violation of a provision of subsection (a) or (b) of section 2 if any provision of subsection (b) of this section applies to such violation.

(b) KNOWING VIOLATIONS.—

(1) FIRST VIOLATION.—Except as provided in paragraph (2), any person who knowingly violates a provision of subsection (a) or (b) of section 2 shall be fined in accordance with title 18, United States Code, imprisoned not more than two years, or both.

(2) SUBSEQUENT VIOLATIONS.—In the case of a second or subsequent knowing violation by a person of a provision of subsection (a) or (b) of section 2, the person shall be fined in accordance with title 18, United States Code, imprisoned not more than five years, or both.

SEC. 5. FEDERAL CIVIL ACTIONS BY STATE ATTORNEYS GENERAL AND CERTAIN OTHER INDIVIDUALS.

(a) INJUNCTIVE RELIEF.—A State, through its State attorney general, on behalf of residents of the State, or any person who holds a permit under section 5712 of the Internal Revenue Code of 1986, may bring in an appropriate district court of the United States a civil action to restrain violations by a person of any provision of subsection (a) or (b) of section 2, including obtaining a preliminary or permanent injunction or other order against the person.

(b) COORDINATION WITH COMMISSION.—Before bringing a civil action under subsection (a), a State attorney general or any such person shall provide to the Federal Trade Commission written notice of the intent of the State attorney general or such person to bring the action.

(c) FEDERAL JURISDICTION.—

(1) IN GENERAL.—The district courts of the United States shall have jurisdiction over any civil action under subsection (a).

(2) VENUE.—A civil action under subsection (a) may be brought only in accordance with section 1391 of title 28, United States Code, or in the district in which the recipient of the tobacco products resides or is found.

(d) REQUIREMENTS FOR INJUNCTIONS AND ORDERS.—

(1) IN GENERAL.—In any civil action under subsection (a), upon a proper showing by the State attorney general or person bringing the action involved, the court may issue a preliminary or permanent injunction or other order to restrain a violation of a provision of subsection (a) or (b) of section 2.

(2) NOTICE.—No preliminary injunction or permanent injunction or other order may be issued under paragraph (1) without notice to the adverse party and an opportunity for a hearing.

(3) FORM AND SCOPE OF ORDER.—Any preliminary or permanent injunction or other order entered in a civil action under subsection (a) shall—

(A) set forth the reasons for the issuance of the order;

(B) be specific in its terms;

(C) describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and

(D) be binding upon—

(i) the parties to the action and the officers, agents, employees, and attorneys of those parties; and

(ii) persons in active concert or participation with the parties to the action who receive actual notice of the order by personal service or otherwise.

(e) ADDITIONAL REMEDIES.—

(1) IN GENERAL.—A remedy under subsection (a) is in addition to any other remedies provided by law.

(2) STATE COURT PROCEEDINGS.—Nothing in this section may be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any State law.

SEC. 6. COLLECTION OF STATE CIGARETTE TAXES.

(a) DEFINITIONS.—Section 1 of the Act of October 19, 1949 (15 U.S.C. 375), is amended—

(1) in paragraph (1), by inserting ''and other legal entities'' after ''individuals'';

(2) by striking paragraph (3);

(3) by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively; and

(4) by adding at the end the following new paragraphs:

''(7) The term 'delivery sale' means any sale of cigarettes to a consumer (other than a sale to a consumer for purposes of resale) if—

''(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service; or

''(B) the cigarettes are delivered by use of the mails or other delivery service.

''(8) The term 'sale to a consumer for purposes of resale' does not include a sale of cigarettes to a natural person who does not conduct business as a distributor or retailer of cigarettes in the jurisdiction in which such person resides.''.

(b) REPORTS TO STATE TOBACCO TAX ADMINISTRATORS.—Section 2 of that Act (15 U.S.C. 376) is amended—

(1) in subsection (a)—

(A) by striking ''or transfers'' and inserting '', transfers, or ships''; and

(B) by striking ''to other than a distributor licensed by or located in such State,''; and

(2) in subsection (b)—

(A) by striking ''(1)''; and

(B) by striking '', and (2)'' and all that follows and inserting a period.

(c) REQUIREMENTS FOR DELIVERY SALES.—That Act is further amended by inserting after section 2 the following new section:

''SEC. 2A. (a) Each person making a delivery sale into a State shall comply with—

''(1) the shipping requirements set forth in subsection (b); and

''(2) all laws of the State generally applicable to sales of cigarettes that occur entirely within the State, including laws imposing—

''(A) excise taxes;

''(B) sales taxes;

''(C) licensing and tax-stamping requirements; and

''(D) escrow or other payment obligations.

''(b)(1) Each person who takes a delivery sale order shall include on the bill of lading included with the shipping package containing cigarettes sold pursuant to such order a clear and conspicuous statement providing as follows: 'CIGARETTES: FEDERAL LAW REQUIRES THE PAYMENT OF ALL APPLICABLE EXCISE AND SALES TAXES, AND COMPLIANCE WITH APPLICABLE LICENSING, TAX-STAMPING, AND ESCROW PAYMENT OBLIGATIONS'.

''(2) Any shipping package described in paragraph (1) that is not labeled in accordance with that paragraph shall be treated as nonmailable matter under section 3001 of title 39, United States Code.

''(c) Each State shall have the authority to require any person making a delivery sale of cigarettes into such State to collect or pay the taxes referred to in subsection (a)(2) and to comply with any other requirements described in that subsection.''.

(d) PENALTIES.—Section 3 of that Act (15 U.S.C. 377) is amended to read as follows:

''SEC. 3. (a) Except as provided in subsection (b), whoever violates a provision of section 2 or 2A shall be fined not more than $1,000, imprisoned not more than 6 months, or both, in the case of the first violation, and fined not more than $5,000, imprisoned not more than 6 months, or both, in the case of any subsequent violation.

''(b) Whoever knowingly violates a provision of section 2 or 2A shall be fined in accordance with title 18, United States Code, imprisoned not more than 2 years, or both.''.

(e) INJUNCTIONS.—Section 4 of that Act (15 U.S.C. 378) is amended—

(1) by inserting ''(a)'' before ''The United States district courts''; and

(2) by adding at the end the following new subsections:

''(b)(1) A State, through its attorney general, or any person who holds a permit under section 5712 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of this Act by any person (or by any person controlling such person).

''(2) Nothing in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of State law.

''(c) The Secretary of the Treasury shall administer the provisions of this Act, and shall have concurrent authority with the Attorney General to enforce the provisions of this Act.''.

SEC. 7. TREATMENT OF CIGARETTES AS NONMAILABLE MATTER.

Section 1716 of title 18, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following new subsection (j):

''(j) All cigarettes (as that term is defined in section 2341(1) of this title) are nonmailable and shall not be deposited in or carried through the mails.''.

SEC. 8. PENAL PROVISIONS REGARDING TRAFFICKING IN CONTRABAND CIGARETTES.

(a) THRESHOLD QUANTITY FOR TREATMENT AS CONTRABAND.—(1) Section 2341(2) of title 18, United States Code, is amended by striking ''60,000 cigarettes'' and inserting ''2,000 cigarettes''.

(2) Section 2342(b) of that title is amended by striking ''60,000'' and inserting ''2,000''.

(3) Section 2343 of that title is amended—

(A) in subsection (a), by striking ''60,000'' and inserting ''2,000''; and

(B) in subsection (b), by striking ''60,000'' and inserting ''2,000''.

(b) RECORDKEEPING, REPORTING, AND INSPECTION.—Section 2343 of that title, as amended by subsection (a)(3) of this section, is further amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''only—'' and inserting ''such information as the Secretary considers appropriate for purposes of enforcement of this chapter, including—''; and

(B) in the flush matter following paragraph (3), by striking the second sentence;

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

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

''(b) Any person who engages in a delivery sale, and who ships, sells, distributes, or receives any quantity in excess of 10,000 cigarettes within a single month, shall submit to the Secretary, pursuant to rules or regulations prescribed by the Secretary, a report that sets forth the following:

''(1) The person's beginning and ending inventory of cigarettes (in total) for such month.

''(2) The total quantity of cigarettes that the person received within such month from each other person (itemized by name and address).

''(3) The total quantity of cigarettes that the person distributed within such month to each person (itemized by name and address) other than a retail purchaser.''; and

(4) by adding at the end the following new subsection:

''(d) In this section, the term 'delivery sale' means any sale of cigarettes to a consumer (other than a sale to a consumer for purposes of resale) if—

''(1) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service; or

''(2) the cigarettes are delivered by use of the mails or other delivery service.''.

(c) DISPOSAL OF FORFEITED CIGARETTES.—Section 2344(c) of that title is amended by striking ''seizure and forfeiture,'' and all that follows and inserting ''seizure and forfeiture, and any cigarettes so seized and forfeited shall be destroyed and not resold.''.

(d) ENFORCEMENT.—Section 2346 of that title is amended—

(1) by inserting ''(a)'' before ''The Secretary''; and

(2) by adding at the end the following new subsection:

''(b) A State, through its attorney general, or any person who holds a permit under section 5712 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of this chapter by any person (or by any person controlling such person).''.

(e) CONFORMING AND CLERICAL AMENDMENTS.—(1) The section heading for section 2343 of that title is amended to read as follows:

''§ 2343. Recordkeeping, reporting, and inspection''.

(2) The table of sections at the beginning of chapter 114 of that title is amended by striking the item relating to section 2343 and inserting the following new item:

''2343. Recordkeeping, reporting, and inspection.''.

SEC. 9. DEFINITIONS.

In this Act:

(1) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.

(2) STATE ATTORNEY GENERAL.—The term ''State attorney general'' means the attorney general or other chief law enforcement officer of a State, or the designee thereof.

(3) TOBACCO PRODUCT.—The term ''tobacco product'' means any product made or derived from tobacco that is intended for human consumption, including cigarettes, smokeless tobacco, pipe tobacco, and the product known as bidi.

SEC. 10. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect 90 days after the date of the enactment of this Act.

(b) RULEMAKING.—The authority of the Federal Trade Commission to commence rulemaking under section 3(b) shall be effective on the date of the enactment of this Act.

(c) UNLAWFUL ACTS.—Section 2 shall apply to sales of tobacco products occurring on or after the effective date of this Act without regard to whether a final rule has been promulgated under section 3(b) as of that date.

By Mr. LIEBERMAN (for himself, Mr. WARNER, Mr. BAYH, Mr. MCCAIN, Mr. MCCONNELL, Mr. DOMENICI, Mr. HUTCHINSON, Ms. LANDRIEU, Mr. ALLARD, Mr. HELMS, and Mr. MILLER):

S.J. Res. 46. A joint resolution to authorize the use of United States Armed Forces against Iraq; read the first time.

S.J. RES. 46

Whereas in 1990 in response to Iraq's war of aggression against and illegal occupation of Kuwait, the United States forged a coalition of nations to liberate Kuwait and its people in order to defend the national security of the United States and enforce United Nations Security Council resolutions relating to Iraq;

Whereas after the liberation of Kuwait in 1991, Iraq entered into a United Nations sponsored cease-fire agreement pursuant to which Iraq unequivocally agreed, among other things, to eliminate its nuclear, biological, and chemical weapons programs and the means to deliver and develop them, and to end its support for international terrorism;

Whereas the efforts of international weapons inspectors, United States intelligence agencies, and Iraqi defectors led to the discovery that Iraq had large stockpiles of chemical weapons and a large scale biological weapons program, and that Iraq had an advanced nuclear weapons development program that was much closer to producing a nuclear weapon than intelligence reporting had previously indicated;

Whereas Iraq, in direct and flagrant violation of the cease-fire, attempted to thwart the efforts of weapons inspectors to identify and destroy Iraq's weapons of mass destruction stockpiles and development capabilities, which finally resulted in the withdrawal of inspectors from Iraq on October 31, 1998;

Whereas in 1998 Congress concluded that Iraq's continuing weapons of mass destruction programs threatened vital United States interests and international peace and security, declared Iraq to be in ''material and unacceptable breach of its international obligations'' and urged the President ''to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations'' (Public Law 105–235);

Whereas Iraq both poses a continuing threat to the national security of the United States and international peace and security in the Persian Gulf region and remains in material and unacceptable breach of its international obligations by, among other things, continuing to possess and develop a significant chemical and biological weapons capability, actively seeking a nuclear weapons capability, and supporting and harboring terrorist organizations;

Whereas Iraq persists in violating resolutions of the United Nations Security Council by continuing to engage in brutal repression of its civilian population thereby threatening international peace and security in the region, by refusing to release, repatriate, or account for non-Iraqi citizens wrongfully detained by Iraq, including an American serviceman, and by failing to return property wrongfully seized by Iraq from Kuwait;

Whereas the current Iraqi regime has demonstrated its capability and willingness to use weapons of mass destruction against other nations and its own people;

Whereas the current Iraqi regime has demonstrated its continuing hostility toward, and willingness to attack, the United States, including by attempting in 1993 to assassinate former President Bush and by firing on many thousands of occasions on United States and Coalition Armed Forces engaged in enforcing the resolutions of the United Nations Security Council;

Whereas members of al Qaida, an organization bearing responsibility for attacks on the United States, its citizens, and interests, including the attacks that occurred on September 11, 2001, are known to be in Iraq;

Whereas Iraq continues to aid and harbor other international terrorist organizations, including organizations that threaten the lives and safety of American citizens;

Whereas the attacks on the United States of September 11, 2001, underscored the gravity of the threat posed by the acquisition of weapons of mass destruction by international terrorist organizations;

Whereas Iraq's demonstrated capability and willingness to use weapons of mass destruction, the risk that the current Iraqi regime will either employ those weapons to launch a surprise attack against the United States or its Armed Forces or provide them to international terrorists who would do so, and the extreme magnitude of harm that would result to the United States and its citizens from such an attack, combine to justify action by the United States to defend itself;

Whereas United Nations Security Council Resolution 678 authorizes the use of all necessary means to enforce United Nations Security Council Resolution 660 and subsequent relevant resolutions and to compel Iraq to cease certain activities that threaten international peace and security, including the development of weapons of mass destruction and refusal or obstruction of United Nations weapons inspections in violation of United Nations Security Council Resolution 687, repression of its civilian population in violation of United Nations Security Council Resolution 688, and threatening its neighbors or United Nations operations in Iraq in violation of United Nations Security Council Resolution 949;

Whereas Congress in the Authorization of Use of Military Force Against Iraq Resolution (Public Law 102–1) has authorized the President ''to use United States Armed Forces pursuant to United Nations Security Council Resolution 678 (1990) in order to achieve implementation of Security Council Resolutions 660, 661, 662, 664, 665, 666, 667, 669, 670, 674, and 677'';

Whereas in December 1991, Congress expressed its sense that it ''supports the use of all necessary means to achieve the goals of United Nations Security Council Resolution 687 as being consistent with the Authorization of Use of Military Force Against Iraq Resolution (Public Law 102–1),'' that Iraq's repression of its civilian population violates United Nations Security Council Resolution 688 and ''constitutes a continuing threat to the peace, security, and stability of the Persian Gulf region,'' and that Congress, ''supports the use of all necessary means to achieve the goals of United Nations Security Council Resolution 688'';

Whereas the Iraq Liberation Act (Public Law 105–338) expressed the sense of Congress that it should be the policy of the United States to support efforts to remove from power the current Iraqi regime and promote the emergence of a democratic government to replace that regime;

Whereas on September 12, 2002, President Bush committed the United States to ''work with the United Nations Security Council to meet our common challenge'' posed by Iraq and to ''work for the necessary resolutions,'' while also making clear that ''the Security Council resolutions will be enforced, and the just demands of peace and security will be met, or action will be unavoidable'';

Whereas the United States is determined to prosecute the war on terrorism and Iraq's ongoing support for international terrorist groups combined with its development of weapons of mass destruction in direct violation of its obligations under the 1991 cease-fire and other United Nations Security Council resolutions make clear that it is in the national security interests of the United States and in furtherance of the war on terrorism that all relevant United Nations Security Council resolutions be enforced, including through the use of force if necessary;

Whereas Congress has taken steps to pursue vigorously the war on terrorism through the provision of authorities and funding requested by the President to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations or persons who planned, authorized, committed or aided the terrorist attacks that occurred on September 11, 2001, or harbored such persons or organizations;

Whereas the President and Congress are determined to continue to take all appropriate actions against international terrorists and terrorist organizations, including those nations, organizations or persons who planned, authorized, committed or aided the terrorist attacks that occurred on September 11, 2001, or harbored such persons or organizations;

Whereas the President has authority under the Constitution to take action in order to deter and prevent acts of international terrorism against the United States, as Congress recognized in the joint resolution on Authorization for Use of Military Force (Public Law 107–40); and

Whereas it is in the national security of the United States to restore international peace and security to the Persian Gulf region: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the ''Authorization for the Use of Military Force Against Iraq''.

SEC. 2. SUPPORT FOR UNITED STATES DIPLOMATIC EFFORTS.

The Congress of the United States supports the efforts by the President to—

(1) strictly enforce through the United Nations Security Council all relevant Security Council resolutions applicable to Iraq and encourages him in those efforts; and

(2) obtain prompt and decisive action by the Security Council to ensure that Iraq abandons its strategy of delay, evasion and noncompliance and promptly and strictly complies with all relevant Security Council resolutions.

SEC. 3. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

(a) AUTHORIZATION.—The President is authorized to use the Armed Forces of the United States as he determines to be necessary and appropriate in order to—

(1) defend the national security of the United States against the continuing threat posed by Iraq; and

(2) enforce all relevant United Nations Security Council Resolutions regarding Iraq.

(b) PRESIDENTIAL DETERMINATION.—In connection with the exercise of the authority granted in subsection (a) to use force the President shall, prior to such exercise or as soon there after as may be feasible, but not later than 48 hours after exercising such authority, make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

(1) reliance by the United States on further diplomatic or other peaceful means alone either (A) will not adequately protect the national security of the United States against the continuing threat posed by Iraq or (B) is not likely to lead to enforcement of all relevant United Nations Security Council resolutions regarding Iraq; and

(2) acting pursuant to this resolution is consistent with the United States and other countries continuing to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations or persons who planned, authorized, committed or aided the terrorists attacks that occurred on September 11, 2001.

(c) WAR POWERS RESOLUTION REQUIREMENTS.—

(1) SPECIFIC STATUTORY AUTHORIZATION.—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that this section is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

(2) APPLICABILITY OF OTHER REQUIREMENTS.—Nothing in this resolution supersedes any requirement of the War Powers Resolution.

SEC. 4. REPORTS TO CONGRESS.

(a) The President shall, at least once every 60 days, submit to the Congress a report on matters relevant to this joint resolution, including actions taken pursuant to the exercise of authority granted in section 2 and the status of planning for efforts that are expected to be required after such actions are completed, including those actions described in section 7 of Public Law 105–338 (the Iraq Liberation Act of 1998).

(b) To the extent that the submission of any report described in subsection (a) coincides with the submission of any other report on matters relevant to this joint resolution otherwise required to be submitted to Congress pursuant to the reporting requirements of Public Law 93–148 (the War Powers Resolution), all such reports may be submitted as a single consolidated report to the Congress.

(c) To the extent that this information required by section 3 of Public Law 102–1 is included in the report required by this section, such report shall be considered as meeting the requirements of section 3 of Public Law 102–1.

STATEMENTS ON SUBMITTED RESOLUTIONS

SENATE RESOLUTION 332—RECOGNIZING THE ''CODE ADAM'' CHILD SAFETY PROGRAM, COMMENDING RETAIL BUSINESS ESTABLISHMENTS THAT HAVE IMPLEMENTED PROGRAMS TO PROTECT CHILDREN FROM ABDUCTION, AND URGING RETAIL BUSINESS ESTABLISHMENTS THAT HAVE NOT IMPLEMENTED SUCH PROGRAM TO CONSIDER DOING SO

Mrs. CLINTON submitted the following resolution; which was referred to the Committee on the Judiciary.

S. RES. 332

Whereas protecting children is one of society's greatest responsibilities;

Whereas child abduction, an unconscionable and horrendous crime, seems to be increasing in frequency;

Whereas parents, and all other adults, must be ever vigilant in public places to protect children, who by their very nature are trusting and unsuspecting, from those depraved and vile individuals who would prey on them;

Whereas recognizing the risk of child abduction, some retail business establishments have developed safety procedures and programs designed to prevent abductors from using crowds of shoppers as cover for nefarious acts;

Whereas one of the most successful programs to prevent child abduction is the ''Code Adam'' alarm developed and implemented by Wal-Mart stores and SAM'S Clubs throughout the Nation; and

Whereas named in tribute to 6-year-old Adam Walsh who was abducted from a shopping mall in the State of Florida and murdered in 1981, the ''Code Adam'' alarm signals that there is a missing child and alerts all sales personnel in the affected retail business establishment to abandon their normal responsibilities and, in a coordinated and prearranged organized manner, to begin searching for the child and monitoring the establishment exits to ensure that the child is not removed from the establishment: Now, therefore, be it

Resolved, That the Senate recognizes the ''Code Adam'' child safety program, commends all retail business establishments that have implemented such program to protect children from abduction, and urges retail business establishments that have not implemented such program to consider doing so.

AMENDMENTS SUBMITTED AND PROPOSED

SA 4850. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4851. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4850. Mr. FEINGOLD submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill insert the following section:

SEC. . COST OF LIVING ADJUSTMENT FOR MEMBERS OF CONGRESS.

Notwithstanding any other provision of law, no adjustment shall be made under section 601(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) (relating to cost of living adjustments for Members of Congress) during fiscal year 2003.

SA 4851. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which was ordered to lie on the table; as follows:

'', *Provided further*, that $200,000 shall be made available for operation of the Mescalero Fish Hatchery, formerly the Mescalero National Fish Hatchery, to be operated under tribal management and control; *Provided further*, That such finding shall be available to the Mescalero Apache Tribe in accordance with the provisions of the Indian Education and Assistance Self-Determination Act, Public Law 93–638''.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BINGAMAN. Mr. President, I wish to announce that the Committee on Energy and Natural Resources will hold a Business Meeting during the session of the Senate on Thursday, October 3, at 9:30 a.m. in SD–366. The purpose of the Business Meeting is to consider pending calendar business.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, October 2, 2002, at 9:30 a.m. on Airlines Viability in the Current Economic Climate.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, October 2, 2002, at 2:00 p.m. to conduct a hearing to review the status and studies of the health impacts of PM–2.5, particularly those effects associated with power plant emissions.

The hearing will be held in SD–406.

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

COMMITTEE ON THE JUDICIARY

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Stopping Child Pornography: Protecting our Children and the Constitution'' on Wednesday, October 2, 2002 in Dirksen Room 226 at 10:00 a.m.

Witness List: Daniel P. Collins, Associate Deputy Attorney General and Chief Privacy Officer, United States Department of Justice, Washington, D.C.; Frederick Schauer, Professor, John F. Kennedy School of Government and Harvard Law School, Cambridge, MA; Anne M. Coughlin, Professor of Law, University of Virginia School of Law, Charlottesville, VA; Ernie Allen, Director, The National Center for Missing and Exploited Children, Alexandria, VA.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LIEBERMAN. Mr. President I ask unanimous consent that the Select