United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, WEDNESDAY, OCTOBER 6, 2004 No. 125—Part II

Senate

ENDORSING THE MINIMUM WAGE

Mr. KENNEDY. Mr. President, in the Bush economy, minimum wage workers are falling farther and farther behind. But every time Democrats in Congress have tried to raise the minimum wage, the Republican leadership has refused even to allow a vote on it. Three times in the 108th Congress, the Republican leadership has brought down a bill rather than allow an up-or-down vote on the minimum wage first on the State Department bill, then on the welfare bill, and, finally, on the class action bill.

Now, 562 prominent economists including four Nobel Prize winners in economics and seven past presidents of the American Economic Association have endorsed the increase to $7 an hour. I ask unanimous consent that a copy of their letter be printed in the RECORD, following my statement.

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

(See exhibit 1.)

Mr. KENNEDY. In today's economy, corporate profits are surging, but workers' wages are stagnant. Minimum wage workers are hardest hit, because they haven't had an increase in the minimum wage for 7 long years. That is why so many of us continue to fight for the Fair Minimum Wage Act, which will raise the minimum wage from $5.15 to $7 in three moderate steps to $5.85 60 days after enactment; $6.45 1-year later; to $7 1-year after that.

It is long past time for Congress to approve an increase in the minimum wage. No one who works for a living should have to live in poverty.

EXHIBIT 1

IT'S TIME FOR A RAISE

Hundreds of economists support a minimum wage increase

The minimum wage has been an important part of our nation's economy for 65 years. It is based on the principle of valuing work by establishing an hourly wage floor beneath which employers cannot pay their workers. In so doing, the minimum wage helps to equalize the imbalance in bargaining power that low-wage workers face in the labor market. The minimum wage is also an important tool in fighting poverty.

The value of the 1997 increase in the federal minimum wage has been fully eroded. The real value of today's federal minimum wage is less than it has been in 46 out of the last 48 years. Moreover, the ratio of the minimum wage to the average hourly wage of non-supervisory workers is 33%, its lowest level in 55 years. This decline is causing hardship for low-wage workers and their families.

We believe that a modest increase in the minimum wage would improve the well-being of low-wage workers and would not have the adverse effects that critics have claimed. In particular, we share the view the Council of Economic Advisers expressed in the 1999 Economic Report of the President that ''the weight of the evidence suggests that modest increases in the minimum wage have had very little or no effect on employment.'' While controversy about the precise employment effects of the minimum wage continues, research has shown that most of the beneficiaries are adults, most are female, and the vast majority are members of low-income working families.

As economists who are concerned about the problems facing low-wage workers, we believe the Fair Minimum Wage Act of 2004's proposed phased-in increase in the federal minimum wage to $7.00 falls well within the range of options where the benefits to the labor market, workers, and the overall economy would be positive.

Twelve states and the District of Columbia have set their minimum wages above the federal level. Additional states, including Florida, Nevada, and New York, are considering similar measures. As with a federal increase, modest increases in state minimum wages in the range of $1.00 to $2.00 can significantly improve the lives of low-income workers and their families, without the adverse effects that critics have claimed.

Henry Aaron, The Brookings Institution; Rebecca Blank, University of Michigan; Ronald G. Ehrenberg, Cornell University; Clive Granger, University of California—San Diego; Lawrence F. Katz, Harvard University; Lawrence R. Klein, University of Pennsylvania; Frank Levy, Massachusetts Institute of Technology; Lawrence Mishel, Economic Policy Institute; Paul A. Samuelson, Massachusetts Institute of Technology; Robert M. Solow, Massachusetts Institute of Technology.

552 OTHER ECONOMISTS AGREE

Economists supporting increase in minimum wage

Frank Ackerman, Global Development and Environment Institute—Tufts University; Irma Adelman, University of California—Berkeley; Randy Albelda, University of Massachusetts—Boston; Robert J. Alexander, Rutgers University; Marcus Alexis, Northwestern University; Sylvia Allegretto, Economic Policy Institute; Gar Alperovitz, University of Maryland—College Park; Teresa L. Amott, Gettysburg College; Alice Amsden, Massachusetts Institute of Technology; Bernard E. Anderson, University of Pennsylvania; Robert M. Anderson, University of California—Berkeley; Eileen Appelbaum, Rutgers University; Robert K. Arnold, Institute of Regional and Urban Studies; David D. Arsen, Michigan State University; Enid Arvidson, University of Texas—Arlington; Michael Ash, University of Massachusetts; Glen Atkinson, University of Nevada—Reno; Alice Audie-Figueroa, United Automobile Workers.

Robert Axtell, The Brookings Institution and Middlebury College; M.V. Lee Badgett, University of Massachusetts; Ron Baiman, University of Illinois—Chicago; Asatar Bair, City College of San Francisco; Dean Baker, Center for Economic and Policy Research; Benjamin Balak, Rollins College; Stephen E. Baldwin, KRA Corporation and George Washington University; Erol Balkan, Hamilton College; Laurence M. Ball, Johns Hopkins University; Brad Barham, University of Wisconsin—Madison; Drucilla K. Barker, Hollins University; David Barkin, Universidad Autonoma Metropolitana—Xochimilco; Christopher Barrett, Cornell University; Timothy J. Bartik, W.E. Upjohn Institute for Employment Research; Laurie J. Bassi, McBassi & Company; Bradley W. Bateman, Grinnell College; Francis M. Bator, Harvard University; Sandy Baum, Skidmore College; William J. Baumol†, New York University; Steve Beckman, United Automobile Workers; Stephen H. Bell, Urban Institute; Dale L. Belman, Michigan State University; Michael H. Belzer, Wayne State University; Lourdes Beneria, Cornell University; Barbara R. Bergmann, American University and University of Maryland; Eli Berman, University of California—San Diego.

Jared Bernstein, Economic Policy Institute; Michael Best, University of Massachusetts—Lowell; Charles L. Betsey, Howard University; David M. Betson, University of

Notre Dame; Carole Biewener, Simmons College; Sherrilyn Billger, Illinois State University; Melissa Binder, University of New Mexico; L. Josh Bivens, Economic Policy Institute; Stanley W. Black, University of North Carolina—Chapel Hill; Margaret Blair, Vanderbilt University Law School; Robert Blecker, American University; Alan S. Blinder, Princeton University; Barry Bluestone, Northeastern University; Peter Bohmer, The Evergreen State College; Roger Bolton, Williams College; James F. Booker, Siena College; Heather Boushey, Center for Economic and Policy Research; Samuel Bowles, Santa Fe Institute; James K. Boyce, University of Massachusetts—Amherst; Ralph Bradburd, Williams College; Katharine Bradbury, Gerard Bradley, New Mexico Department of Labor; Mark D. Brenner, University of Massachusetts; Vernon M. Briggs, Jr., Cornell University; Daniel W. Bromley, University of Wisconsin; Eileen L. Brooks, University of California—Santa Cruz; Annette N. Brown, BearingPoint, Inc.; Christopher Brown, Arkansas State University; Clair Brown, University of California—Berkeley; Michael Brun, Illinois State University; Neil H. Buchanan, Rutgers School of Law.

Robert Buchele, Smith College; Mary A. Burke, Florida State University; Paul G. Burkett, Indiana State University; Stephen V. Burks, University of Minnesota—Morris; Joyce Burnette, Wabash College; Gary Burtless, The Brookings Institution; Dallas Burtraw, Resources for the Future; Paul D. Bush, California State University—Fresno; Antonio Callari. Franklin and Marshall College; James Campen, University of Massachusetts—Boston; Maria Cancian, University of Wisconsin—Madison; Paul Cantor, Norwalk Community College; Peter Cappelli, University of Pennsylvania; Anthony P. Carnevale, National Center on Education and the Economy; Jeffrey P. Carpenter, Middlebury College; Françoise Carré, University of Massachusetts—Boston; Michael J. Carter, University of Massachusetts—Lowell; Susan B. Carter, University of California—Riverside; John Carvellas, Saint Michael's College.

Karl E. Case, Wellesley College; Jeff Chapman, Economic Policy Institute; John Dennis Chasse, State University of New York—Brockport; Howard Chernick, Hunter College and the Graduate Center, City University of New York; Robert Cherry, Brooklyn College—City University of New York; Lawrence Chimerine, Radnor International Consulting, Inc.; Charles R. Chittle, Bowling Green State University; Kimberly Christensen, State University of New York—Purchase; Paul P. Christensen, Hofstra University; Richard D. Coe, New College of Florida; Robert M. Coen, Northwestern University; Steve Cohn, Knox College; David C. Cole, Harvard Institute for International Development; Helen Connolly, Northeastern University; John E. Connor, Villanova University; Patrick Conway, University of North Carolina—Chapel Hill; James V Cornehls, University of Texas—Arlington; David Crary, Eastern Michigan University; Vincent Crawford, University of California—San Diego; James Crotty, University of Massachusetts; Stephen Cullenberg, University of California—Riverside.

James Cypher, California State University—Fresno; Anita Dancs, National Priorities Project; Nasser Daneshvary, University of Nevada—Las Vegas; David M. Danning, Massachusetts Teachers Association; Sheldon Danziger, University of Michigan; Jane D'Arista, New School University; Paul A. David, Stanford University; Sidney Davidson, University of Chicago; John B. Davis, Marquette University and University of Amsterdam; Charles W. de Seve, American Economics Group, Inc.; Jayne Dean, Wagner College; Gregory E. DeFreitas, Hofstra University; Brad DeLong, University of California—Berkeley; James G. Devine, Loyola Marymount College; Peter Diamond, Massachusetts Institute of Technology; Ranjit Dighe, State University of New York—Oswego; Randall Dodd, Financial Policy Forum; Peter B. Doeringer, Boston University; Peter Dorman, The Evergreen State College; Robert Drago, Pennsylvania State University; Laura Dresser, University of Wisconsin—Madison; Arindrajit Dube, University of California—Berkeley; Richard B. Du Boff, Bryn Mawr College; Marie Duggan, Keene State College; Greg J. Duncan, Northwestern University; Steven Durlauf, University of Wisconsin—Madison.

Donald H. Dutkowsky, Syracuse University; Amitava K. Dutt, University of Notre Dame; M. Jan Dutta, Rutgers University; Gary Dymski, University of California—Riverside; John A. Edgren, Eastern Michigan University; Barry Eichengreen, University of California—Berkeley; Bernard Elbaum, University of California—Santa Cruz; Catherine S. Elliott, New College of Florida; Zohreh Emami, Alverno College; Richard W. England, University of New Hampshire; Ernie Englander, George Washington University; Gerald Epstein, University of Massachusetts—Amherst; Sharon J. Erenburg, Eastern Michigan University; Christopher L. Erickson, University of California—Los Angeles; Timothy J. Essenburg, Bethel University; Susan L. Ettner, University of California—Los Angeles; Linda Ewing, United Automobile Workers; Colleen Fahy, Assumption College; David Fairris, University of California—Riverside.

Henry S. Farber, Princeton University; Andrew Farrant, Franklin and Marshall College; Jeff Faux, Economic Policy Institute; Sasan Fayazmanesh, California State University— Fresno; Steve Fazzari, Washington University; Rashi Fein, Harvard Medical School; Robert M. Feinberg, American University; Susan F Feiner, University of Southern Maine; David Felix, Washington University; Ronald F. Ferguson, Harvard University; William D. Ferguson, Grinnell College; Rudy Fichtenbaum, Wright State University; Deborah M. Figart, Richard Stockton College; T. Aldrich Finegan, Vanderbilt University; Lydia Fischer, United Automobile Workers; Albert Fishlow, Columbia University; John Fitzgerald, Bowdoin College; Sean Faherty, Franklin and Marshall College.

Maria S. Floro, American University; Nancy Folbre, University of Massachusetts; Harold A. Forman, United Food and Commercial Workers; Mathew Forstater, University of Missouri—Kansas City; Harriet Fraad; Alan Frishman, Hobart and William Smith Colleges; Kevin Furey, Chemeketa Community College; James K. Galbraith, University of Texas—Austin; Monica Galizzi, University of Massachusetts—Lowell; Kevin P. Gallagher, Boston University; David Gallo, California State University—Chico; Irwin Garfinkel, Columbia University; Deborah L. Garvey, Santa Clara University; Jonah B. Gelbach, University of Maryland; Robley George, Center for Study of Democratic Societies; Christophre Georges, Hamilton College; Malcolm Getz, Vanderbilt University; Teresa Ghilarducci, University of Notre Dame; Lisa A. Giddings, University of Wisconsin—La Crosse; Richard J. Gilbert, University of California—Berkeley.

John I. Gilderbloom, University of Louisville; Herbert Gintis, Santa Fe Institute and University of Massachusetts; Amy Glasmeier, Penn State University; Norman Glickman, Rutgers University; Robert Glover, University of Texas —Austin; Arthur S. Goldberger, University of Wisconsin—Madison; Lonnie Golden, Penn State University—Abington College; Debbie Goldman, Communications Workers of America; Steven M. Goldman, University of California—Berkeley; William W. Goldsmith, Cornell University; Nance Goldstein, University of Southern Maine; C.N. Gomersall, Luther College; Eban S. Goodstein, Lewis and Clark College; Robert J. Gordon, Northwestern University; Peter Gottschalk, Boston College; Elise Gould, Economic Policy Institute; Ulla Grapard, Colgate University; Daphne Greenwood, University of Colorado—Colorado Springs; Christopher Gunn, Hobart and William Smith Colleges; Kwabena Gyimah-Brempong, University of South Florida; Joseph E. Harrington, Johns Hopkins University; Doug Harris, Florida State University; Jonathan M. Harris, Global Development and Environment Institute—Tufts University; Martin Hart-Landsberg, Lewis and Clark College.

Mitchell Harwitz, State University of New York—Buffalo; Robert Haveman, University of Wisconsin—Madison; F. Gregory Hayden, University of Nebraska—Lincoln; Sue Headlee, American University; Carol E. Heim, University of Massachusetts—Amherst; James Heintz, University of Massachusetts—Amherst; Paul A. Heise, Lebanon Valley College; Suzanne Helburn, University of Colorado—Denver; Susan Helper, Case Western Reserve University; John F Henry, California State University—Sacramento; Edward Herman, University of Pennsylvania; Stephen Herzenberg, Keystone Research Center; Donald D. Hester, University of Wisconsin—Madison; Gillian Hewitson, Franklin and Marshall College; William Hildred, Northern Arizona University; Marianne T. Hill, Center for Policy Research and Planning; Martha S. Hill, University of Michigan; Michael G. Hillard, University of Southern Maine; Albert O. Hirschman, Institute for Advanced Study; Rod Hissong, University of Texas—Arlington; Emily Hoffman, Western Michigan University.

Karen C. Holden, University of Wisconsin—Madison; Harry Holzer, Georgetown University; Barbara Hopkins, Wright State University; Bobbie L. Horn, University of Tulsa; Julie Hotchkiss, Georgia State University; Candace Howes, Connecticut College; Carl E. Hunt, Richard W. Hurd, Cornell University; Saul H. Hymans, University of Michigan; Fred Inaba, Washington State University; Alan Isaac, American University; Jonathan Isham, Middlebury College; Michael Jacobs, New York City Independent Budget Office; Sanford M. Jacoby, University of California—Los Angeles; Kenneth P. Jameson, University of Utah; Russell A. Janis, University of Massachusetts—Amherst; Elizabeth J. Jensen, Hamilton College; Pascale Joassart, University of Massachusetts; Jerome Joffe, St. John's University; Lawrence D. Jones, University of British Columbia; Robert Jones, Skidmore College; Bernard Jump, Syracuse University; Fadhel Kaboub, Simon's Rock College of Bard; Alfred E. Kahn, Cornell University; Shulamit Kahn, Boston University; John Kane, State University of New York—Oswego; Thomas J. Kane, University of California—Los Angeles; J.K. Kapler, University of Massachusetts—Boston.

Thomas Karier, Eastern Washington University; Victor Kasper, Buffalo State College; Sheila Kamerman, Columbia University; David E. Kaun, University of California—Santa Cruz; Wells Keddie, Rutgers University; Peter B. Kenen, Princeton University; Daphne Kenyon, D.A. Kenyon & Associates; Kwan S. Kim, University of Notre Dame; Marlene Kim, University of Massachusetts—Boston; Christopher T. King, University of Texas—Austin; Mary King, Portland State University; Lori G. Kletzer, University of California—Santa Cruz; Janet T.

Knoedler, Bucknell University; Thomas A. Kochan, Massachusetts Institute of Technology; Tim Koechlin, Vassar College; Andrew I. Kohen, James Madison University; Krishna Kool, University of Rio Grande; Douglas Koritz, Buffalo State College; Sherrie Koss Kossoudji, University of Michigan; Nicholas N. Kozlov, Hofstra University; Catherine Krause, University of New Mexico; Alan J. Krupnick, Resources for the Future; Douglas Kruse, Rutgers University; Helen F. Ladd, Duke University; Robert M. LaJeunesse, State University of New York—New Paltz; Kevin Lang, Boston University; Glenn-Marie Lange, The Earth Institute—Columbia University; Catherine Langlois, Georgetown University.

Gary A. Latanich, Arkansas State University; Robert Z. Lawrence, Harvard University; William Lazonick, University of Massachusetts—Lowell and INSEAD; Frederic S. Lee, University of Missouri—Kansas City; J. Paul Leigh, University of California—Davis; Nancey Green Leigh, Georgia Institute of Technology; Charles L. Leven, Washington University; Charles Levenstein, University of Massachusetts—Lowell; Margaret C. Levenstein, University of Michigan; Henry M. Levin, Columbia University and Stanford University; David I. Levine, University of California—Berkeley; Herbert S. Levine, University of Pennsylvania; Mark Levinson, UNITE HERE; Mark Levitan, Community Service Society of New York; Stephen Levy, Center for Continuing Study of California Economy; Arthur Lewbel, Boston College; James D. Likens, Pomona College; Edward J. Lincoln, Council on Foreign Relations; David L. Lindauer, Wellesley College; Charles Lindblom, Yale University; Victor D. Lippit, University of California—Riverside; Mark C. Long, University of Washington; Pamela Loprest, The Urban Institute; Richard Lotspeich, Indiana State University; Michael C. Lovell, Wesleyan University.

Milton D. Lower, Stephanie Luce, Labor Center—University of Massachusetts; Jens Ludwig, Georgetown University; Dan Luria, Michigan Manufacturing Technology Center; Lisa M. Lynch, Tufts University; Robert Lynch, Washington College; Arthur MacEwan, University of Massachusetts—Boston; Hasan MacNeil, California State University—Chico; Craig R. MacPhee, University of Nebraska—Lincoln; Janice F. Madden, University of Pennsylvania; Mark H. Maier, Glendale Community College; Jay Mandle, Colgate University; Andrea Maneschi, Vanderbilt University; Dave E. Marcotte, University of Maryland—Baltimore County; Stephen A. Marglin, Harvard University; Robert A. Margo, Vanderbilt University; Stephen V. Marks, Pomona College; Ann R. Markusen, University of Minnesota; Ray Marshall, University of Texas—Austin; Jeffrey Martin; Patrick L. Mason, Florida State University; Julie A. Matthaei, Wellesley College; Peter H. Matthews, Middlebury College; Anne Mayhew, University of Tennessee; Alan K. McAdams, Cornell University.

Elaine McCrate, University of Vermont; Richard McIntyre, University of Rhode Island; Charles W. McMillion, MBG Information Services; Martin Melkonian, Hofstra University; Seymour Melman, Columbia University; Jo Beth Mertens, Hobart and William Smith Colleges; Clarisse Messemer Lewis, and Clark College; Peter B. Meyer, University of Louisville; Thomas Michl, Colgate University; Edward Miguel, University of California—Berkeley; John A. Miller, Wheaton College; S.M. Miller, Commonwealth Institute; Jerry Miner, Syracuse University; Diane Monaco, Manchester College; Edward B. Montgomery, University of Maryland; Robert E. Moore, Georgia State University; Barbara A. Morgan, Johns Hopkins University; John R. Morris, University of Colorado—Denver; Fred Moseley, Mount Holyoke College; Leon N. Moses, Northwestern University; Philip I. Moss, University of Massachusetts—Lowell; Tracy Mott, University of Denver; Kajal Mukhopadhyay, University of Notre Dame; Alicia H. Munnell, Boston College.

Richard J. Murnane, Harvard University; Michael Murray, Bates College; Peggy Musgrave, University of California—Santa Cruz; Richard A. Musgrave, Harvard University; Ellen Mutari, Richard Stockton College; Michele Naples, The College of New Jersey; Tara Natarajan, St. Michael's College; Julie A. Nelson, Tufts University; Reynold F. Nesiba, Augustana College—Sioux Falls, SD; Egon Neuberger, State University of New York—Stony Brook; Donald A. Nichols, University of Wisconsin—Madison; Laurie Nisonoff, Hampshire College; Emily Northrop, Southwestern University; Leslie Nulty, Carol O'Cleireacain, The Brookings Institution; Seamus O'Cleireacain, State University of New York—Purchase; Stephen A. O'Connell, Swarthmore College.

William P. O'Dea, State University of New York—Oneonta; Mehmet Odekon Skidmore, College; Amy O'Hara, Erik Olsen, Franklin and Marshall College; Paulette Olson Wright, State University; Paul Ong, University of California—Los Angeles; Van Doorn Ooms, Committee for Economic Development; Douglas V. Orr, Eastern Washington University; Jonathan M. Orszag, Competition Policy Associates, Inc.; Peter Orszag, The Brookings Institution; Paul Osterman, Massachusetts Institute of Technology; Shallanne Osterreich, Ithaca College; Rudolph A. Oswald, George Meany, Labor Studies Center; Spencer J. Pack, Connecticut College; Arnold Packer, Johns Hopkins University; Thomas Palley, US-China Economic and Security Review Commission.

Dimitri B. Papadimitriou, The Levy Economic Institute of Bard College; James A. Parrott, Fiscal Policy Institute; Manuel Pastor, University of California—Santa Cruz; Eva A. Paus, Mount Holyoke College; Michael Perelman, California State University—Chico; Kenneth R. Peres, Communications Workers of America; George L. Perry, The Brookings Institution; Joseph Persky, University of Illinois—Chicago; Karen A. Pfeifer, Smith College; Ronnie J. Phillips, Colorado State University; Michael J. Piore, Massachusetts Institute of Technology; Steven C. Pitts, University of California—Berkeley; Karen R. Polenske, Massachusetts Institute of Technology; Robert Pollin, University of Massachusetts—Amherst; Marshall Pomer, Macroeconomic Policy Institute; Marilyn Power, Sarah Lawrence College; Robert E. Prasch, Middlebury College; Lee Price, Economic Policy Institute; Jean L. Pyle, University of Massachusetts—Lowell; Paddy Quick, St. Francis College; John M. Quigley, University of California—Berkeley; Willard W. Radell, Jr., Indiana University of Pennsylvania; Fredric Raines, Washington University; Steven Raphael, University of California—Berkeley; Wendy Rayack, Wesleyan University.

Robert Rebelein, Vassar College; James Rebitzer, Case Western Reserve University; Michael Reich, University of California—Berkeley; Robert B. Reich, Brandeis University; Kenneth A. Reinert, George Mason University; Trudi Renwick, Fiscal Policy Institute; Andrew Reschovsky, University of Wisconsin—Madison; James Reschovsky, Center for Studying Health System Change; Daniel Richards, Tufts University; Tom Riddell, Smith College; Ronald G. Ridker, World Bank; Alice M. Rivlin, The Brookings Institution and Georgetown University; Bruce Roberts, University of Southern Maine; John Roche St. John, Fisher College; Charles P. Rock, Rollins College; William M. Rodgers III, Rutgers University; Dani Rodrik, Harvard University; Frank Roosevelt, Sarah Lawrence College; Howard F Rosen, Trade Adjustment Assistance Coalition; Sumner Rosen, National Jobs for All Coalition and Columbia University; Joshua L. Rosenbloom, University of Kansas; William W. Ross, Fu Associates, Ltd.; Roy J. Rotheim, Skidmore College; Joydeep Roy, Economic Policy Institute; David F. Ruccio, University of Notre Dame; Lynda Rush, California State Polytechnic University—Pomona.

Vernon W. Ruttan, University of Minnesota; Gregory M. Saltzman, Albion College; Sydney Saltzman, Cornell University and University of Michigan; Saskia Sassen, University of Chicago Law School; Christine Sauer, University of New Mexico; Max Sawicky, Economic Policy Institute; Peter V. Schaeffer, West Virginia University; William C. Schaniel, State University of West Georgia; F M. Scherer, Harvard University; A. Allan Schmid, Michigan State University; Stephen J. Schmidt, Union College; John Schmitt, 17th Street Economics; Juliet Schor, Boston College; Charles L. Schultze, The Brookings Institution; Elliot Sclar, Columbia University; Allen J. Scott, University of California, Los Angeles; Bruce R. Scott, Harvard Business School; Robert Scott, Economic Policy Institute; Stephanie Seguino, University of Vermont; Lawrence Seidman, University of Delaware; Jean Shackelford, Bucknell University; Harley Shaiken, University of California—Berkeley; Philip Shapira, Georgia Institute of Technology; Robert J. Shapiro, Sonecon LLC; Mohammed Sharif, University of Rhode Island; Lois B. Shaw, Institute for Women's Policy Research; Bertram Silverman, Hofstra University; Stephen J. Silvia, American University.

Margaret C. Simms, Joint Center for Political and Economic Studies; Michael Simmons, North Carolina A&T State University; Betty F. Slade, Courtenay Slater, Timothy M. Smeeding, Center for Policy Research, Syracuse University; Joel Sobel, University of California-San Diego; Martin C. Spechler, Indiana University-Purdue University Indianapolis; Marcus Stanley, Case Western Reserve University; James L. Starkey, University of Rhode Island; Howard Stein, University of Michigan; Mary Huff Stevenson, University of Massachusetts-Boston; Michael Storper, University of California-Los Angeles and London School of Economics; Diana Strassmann, Rice University; Myra H. Strober, Stanford University; David M. Sturges, Colgate University; Richard Sutch, University of California-Riverside; Paul A. Swanson, William Paterson University; William Tabb, Queens College; David Terkla, University of Massachusetts-Boston; Ross D. Thomson, University of Vermont; Emanuel D. Thorne, Brooklyn College-City University of New York.

Jill Tiefenthaler, Colgate University; Thomas H. Tietenberg, Colby College; Chris Tilly, University of Massachusetts-Lowell; Marc R. Tool, California State University-Sacramento; Scott Trees, Siena College; A. Dale Tussing, Syracuse University; Laura D'Andrea Tyson, London Business School; Christopher Udry, Yale University; Daniel A. Underwood, Peninsula College; Lynn Unruh, University of Central Florida; David Vail, Bowdoin College; Marjolein van der Veen, Shoreline Community College; Don Vandegrift, The College of New Jersey; Douglas Vickers, University of Massachusetts; Michael Vogt, Eastern Michigan University; Paula B. Voos, Rutgers University; Mark Votruba, Case Western Reserve University; Jeff Waddoups, University of Nevada-Las Vegas; Matt Warning, University of

Puget Sound; Robert W. Wassmer, California State University-Sacramento; Sidney Weintraub, Center for Strategic and International Studies; Mark Weisbrot, Center for Economic and Policy Research; Charles L. Weise, Gettysburg College; Thomas E. Weisskopf, University of Michigan; Christian E. Weller, Center for American Progress; Fred M. Westfield, Vanderbilt University; Charles J. Whalen, Perspectives on Work.

Melvin I. White, Brooklyn College-City University of New York; Cathleen Whiting, Williamette University; Howard Wial, Keystone Research Center; Charles K. Wilber, University of Notre Dame; Linda Wilcox Young, Southern Oregon University; Arthur R. Williams, John Willoughby, American University; Paul Winters, American University; Barbara L. Wolfe, University of Wisconsin-Madison; Edward Wolff, New York University; Martin Wolfson, University of Notre Dame; Brenda Wyss, Wheaton College; Yavuz Yasar, University of Denver; Carol Zabin, University of California-Berkeley; June Zaccone, National Jobs for All Coalition and Hofstra University; David A. Zalewski, Providence College; Henry W. Zaretsky, Henry W Zaretsky & Associates, Inc.; Lyuba Zarsky, Global Development and Environment Institute-Tufts University; Andrew Zimbalist, Smith College.

*indicates Nobel Laureates. †indicates past presidents of the American Economic Association. Affiliations are provided for identification purposes only and should not be construed as the official view of any of the institutions listed.

APPRECIATION FOR BRIAN GREEN

Mr. ALLARD. Mr. President, I rise today to express my appreciation for the outstanding service of Brian Green to me and to my fellow members on the Senate Armed Services Committee.

Brian Green has been a professional staff member and staff lead for the Strategic Forces Subcommittee of the Senate Armed Services Committee for over 3 years. As the chairman of the Strategic Forces Subcommittee for much of that time, I have had the opportunity to closely observe Brian. I can honestly tell you that Brian is an exceptional staffer and a tremendous human being.

As the staff lead for the subcommittee, Brian has helped me and the other members of subcommittee fulfill our responsibilities pertaining to the oversight of Department of Defense strategic, ballistic missile defense, and military space programs. His expertise and recommendations have proved critical time and time again during the Senate Armed Services Committee consideration of the annual defense authorization bill.

I can personally attest to numerous occasions when Brian provided the need information and proposals that made the difference in achieving the subcommittee's objectives. I cannot stress enough how much of a relief it was to know that Brian was always available to advance the subcommittee's policy goals and on guard to protect the subcommittee's interests.

During his time in the Senate, Brian also helped promote and protect our Nation's effort to develop and deploy a ballistic missile defense system. He played a lead role in coordinating the opposition to proposed budget cuts to the program. Brian's ability to work with multiple offices, the National Security Council, and the White House was pivotal in the debate and eventually led to the restoration of funding.

Brian came to the to the Senate after serving 4 years as a professional staff member on the House Armed Services Committee. While in the House, Brian played a crucial role in developing the House-version of the National Missile Defense Act of 1999 and the creation of the National Nuclear Security Administration in the Department of Energy.

It is not just his achievements that cause Brian to stand out. He has been utterly committed to his job. Brian works until the job is completed and completed well. He has an innate ability to find solutions to difficult problems, including those that might have considerable political implications. Perhaps most significantly, Brian is a team player and approaches his job without pretense. Members and staff alike have always appreciated Brian's willingness to work with them on even the most minute policy or budget issue.

It is disappointing to lose Brian to the private sector. We will miss his diligence, his integrity and his expertise. At the same time, I am grateful that Brian was able to serve the Senate for so long and so faithfully. I congratulate Brian on his new position and wish him the best in the future.

I yield the floor.

CERTIFIED REGISTERED NURSE ANESTHETISTS

Mr. INOUYE. Mr. President, I commend military certified registered nurse anesthetists, CRNAs. CRNAs are advanced practice nurses who administer anesthesia. Today, CRNAs administer approximately 65 percent of the anesthetics given to patients each year for all types of surgical cases in the United States.

Nurse anesthetists have been the principal anesthesia providers in combat areas in every war in which the United States has been engaged since World War I. In World War II, there were 17 nurse anesthetists to every 1 physician anesthetist. In Vietnam, the ratio of CRNAs to physician anesthetists was approximately 3 to 1. During the Panama strike authorized in 1989, only CRNAs were sent with the fighting forces. In addition, the vast majority of anesthesia providers deployed for Operation Iraqi Freedom and Operation Enduring Freedom has been CRNAs. Nurse anesthetists are again carrying the load by providing 80 percent of the anesthesia requirements in Iraq and Afghanistan. We rely heavily on CRNAs to accomplish wartime missions and our need for their services will only increase in the future.

In all of the uniformed services, maintaining adequate numbers of Active Duty and Reserve CRNAs is of utmost concern. For several years, the number of CRNAs serving on active duty has fallen somewhat short of the number authorized by the Department of Defense. This lag in recruitment has been further exacerbated by a strong demand for CRNAs in both the public and private sectors. One reason the military has difficulty retaining CRNAs is that a large pay gap exists between annual civilian salaries and military pay.

I am deeply concerned about retention of these CRNAs, particularly in the Army Nurse Corps. It has come to my attention that within the next 3 years, the Army Nurse Corps could lose up to 50 percent of its current complement of CRNAs. A recent survey of Army CRNAs revealed that despite overall satisfaction with their anesthesia practice, dissatisfaction with pay and frequent deployments are the primary reasons for leaving active duty.

One strategy that is proving effective in increasing overall satisfaction is the Army Surgeon General's 180-day rotation policy. I urge continuation of this policy. However, this is not enough to ensure that we meet our mission. I am quite certain that another remedy to prevent further losses would be an across-the-board increase in incentive speciality pay for all CRNAs, regardless of Active-Duty service obligation. I trust that the Department of Defense is also concerned and actively pursuing measures to address this very important issue.

PARDONING ''JACK'' JOHNSON

● Mr. HATCH. Mr. President. I rise to express my support for S. Res. 447, which asks the President to pardon posthumously John Arthur ″Jack″ Johnson for Mr. Johnson's racially-motivated 1913 conviction.

As a huge fan of the sport of boxing, I admire the great achievements of Mr. Johnson in his too short career. But I feel a greater need to recognize and pardon Mr. Johnson for the great injustice he suffered. Although it is too late to properly rectify what was done to Jack Johnson, I hope in some small way we can call attention to his remarkable achievements and repair his good name.

Jack Johnson was the first African-American boxer to win the heavyweight title. While this was a landmark achievement for African-Americans, Johnson's achievements unfortunately had the effect of escalating racial tensions and his subsequent victories provoked racial rioting. The effort to dethrone him brought about the search for the ″Great White Hope″ during his 1908–1915 reign as heavyweight champion.

The consensus is that while Johnson was not defeated in the boxing ring he could be stopped by trumped-up criminal charges. In 1913, Johnson was found guilty of violating the ″white-slavery″ Mann Act for taking his future wife

out of State. Johnson was convicted and he tried to appeal his sentence. Before the ruling on his appeal, Johnson fled the country and was a fugitive for 7 years before he returned to the United States in 1920. Johnson turned himself over to Federal authorities and served 10 months in Ft. Leavenworth, KS.

Mr. Johnson went on to continue fighting but never returned to the same glory. He was killed in a car accident in 1946 at the age of 68. Eight years later, he became a charter member of the Boxing Hall of Fame.

I am hopeful that the President will accept this petition and issue a posthumous Presidential pardon for Jack Johnson. Mr. Johnson defied the racist standards of his day to become a world champion. He was a hero and example to a greatly oppressed people who had too few public heroes to look to emulate.

KINSHIP CAREGIVERS

Mrs. CLINTON. Mr. President, I rise today to recognize the important work of kinship caregivers across the Nation and to commend the Edgewood Center for Children and Families in San Francisco, CA, for its long-spanning commitment to caring for children.

Kinship caregivers are making a real difference in the lives of children all across our country. According to the Census, more than 6 million children—1 in 12—live in households headed by grandparents or other relatives. Similarly, a study conducted by the American Association of Retired Persons found that the number of children living in grandparent-headed households increased by 30 percent between 1990 and 2000. Unfortunately, while grandparents and other relatives have stepped forward to provide safe and loving homes for the children in their care, they also often face great difficulties in achieving emotional and financial stability.

With millions of children still in need of loving, permanent homes and countless grandparents and relatives willing to raise these children who need our support, there is more work to be done. The Edgewood Center for Children and Families is the oldest children's charity in the western United States serving children and families that provides a national model for keeping families intact. Edgewood Center's Kinship Support Network is the first program in the nation to provide comprehensive, private-sector support services to relative caregiver families. This program uses mentoring, support groups, and training to prepare grandparents and relatives for parenting, while providing tutoring, independent living skills, and mental health care for adopted children. Last year, as many as 95.5 percent of the children in Edgewood's program either remained with their kinship families or were reunited with their parents, and less than 2 percent had to be moved into foster care. This is an enormous success considering that only 78 percent of Kinship families remained stable in the years prior to the inception of Edgewood's programs.

In July, I introduced the Kinship Caregiver Support Act, S. 2706, to establish community ''kinship navigator'' programs with services similar to the Edgewood's Kinship Support Networks. My legislation would also help ease the financial burden of kinship caregivers so that these families receive the financial support they need. I look forward to working with my colleagues in the Senate to ensure passage of the Kinship Caregiver Support Act so that we help strengthen kinship families all across America.

Again, I commend the Edgewood Center for Children and Families for its tradition of excellence in providing services to kinship caregivers and extend my best wishes for continued success in the future.

HONORING FAVORITE TEACHERS

Mr. DAYTON. Mr. President, nearly 4,000 Minnesotans honored their favorite teacher at my Minnesota State fair booth this summer. I honor these teachers further by submitting their names to the CONGRESSIONAL RECORD, as follows:

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

Filmore Central Middle School—Ms. Paulson; Fine Arts Interdisciplinary Resource School—Scott Charlesworth; Five Hawks Elementary—Eleanor Doherty, Anne Nelson, Grace Tillotson; Focus Beyond—Dan Nicklaey; Foley High School—Bill Brand, Dave Voeltz; Foley Intermediate School—Darryl Bosshart, Janet Johnson, Lisa Wruck; Folwell Middle School—Amanda Guanzon; Forest Elementary—Bill Lubansky, Terri Moore, Tina Olinyk, Norma Jean Terhaar; Forest Hills Elementary—Ms. McKeaver, Steve Watson; Forest Lake Elementary—Barbara Crawford, Janie Reid, Joy Sietsma; Forest Lake High School—Alice Berven, Henry Hebert, Bill Streeter, Ms. Unzie, Donald Thompson; Four Seasons Elementary—Rebecca Brown, Ms. Casserly-Smith, Ms. Graver; Four Winds Elementary—Laura Manthey; Fourth Baptist Christian School—Karen Fitzgerald, Kay Wohlenhaus; Franklin Elementary (Anoka)—Don Gawreluk, Patricia Georg; Franklin Elementary (Rochester)—Pat Taylor; Franklin Junior High School (Brainerd)—Robert Bjorge; Franklin Magnet Elementary (St. Paul)—Mary Tacheny; Franklin Middle School (Minneapolis)—Rod Gordon, Kris Shaban; Frazee High School—Ta Fett; Fred Moore Middle School—Don Bright, Sonja Chamberlain, Denise Collins, Nancy Jacobsen, Mary Ewens; Frederic Elementary—Stacy Cox, Nancy Steinke; Freeman Elementary (Woodland, CA); Fridley High School—David Loo, Dave Ryan, Constance Schindel, Joanne Toews; Fridley Middle School—Jean Andrews, Debra Kay, Tonya Lee; Friendly Hills Middle School—Pam Hough, Emily Jedlicka, Peter Klabachek; Friends School of Minnesota—Susan Cahan, Laurie Carlson, Elizabeth Herbert, Kak Jarvis, Sally Wiedemann; Frost Lake Magnet—Mrs. Brink, Megan Doerr, Mary McCrossan; Gage Elementary—Kerry Much; Galtier Magnet—Gloria Johnson, Nancy Pavek; Gan Shelanu Preschool—Barb Kahn; Garden City Elementary—Maren Dahl, Shella Huggett, Peter Pearson, Nancy Wavrin; Garfield Elementary—Jodi Sweet; Gatewood Elementary—Mrs. Bergland, Monica Grubb, Karen Jensen, Becky Knickerbocker, Mary Ofstie, Mrs. Van Waye, Monia Grubb, Justin Ingahm; Gideon Pond Elementary—Eileen Abrahamson, Karen Krafka, Cindy Nepsund, Mrs. Rognlie; Glacier Hills Elementary—Karen Colbert, Shelley Grandbois; Gleason Lake Elementary—Beth Blomlie, James Dvorak, Jerilyn Horvath, Deanna Rehnke, Barb Abramson, Mary Savage; Glen Lake Elementary—Stephanie Bell, George Rota; Glencoe-Silver Lake High School—Richard Cohrs, Josh Olson; Glendale Elementary (Prior Lake)—Sarah Wrobleski; Glendale Union High School (Phoenix, AZ)—Bill Roseberry; Golden Lake Elementary—Mrs. Flolid, Todd Trick; Goodhue Elementary—Nancy Conway, Jennifer Doerhoerfer; Gordon Bailey Elementary—Sara Sorenson; Grace Christian Academy (Park Rapids)—Grace Becker; Grace Christian School (Grand Rapids)—Letha Lemon; Graded School (Sao Paolo, Brazil)—Todd Brown; Grainwood Elementary—Terri Zenk; Grand Meadow High School—Janet Moe; Grand Rapids—Christine Dimich; Grandview Middle School—Katie Rutledge, Sara Sedlack, Mrs. Seifert, Ms. Swanson, Pamela Weber; Grantsburg Middle School (Grantsburg, WI)—Kim Nelson; Greenleaf Elementary—Sarah Czech, Kathy Johnson, Maxine Johnson, Mrs. Taffe, Maureen Williams; Greenwood Elementary—Mary Dvorak, Bonnie Hatton, Mrs. Lachmiller, Amy Westman; Grey Cloud Elementary—Ray Rawson, Mrs. Weber, Ms. Ferber; Grove City—Cheryl Riebe, Doug Torgerson; Groveland Elementary—Mark Brazinski, Rebecca Faatz, Shirley Herzig, Jane Meyer, Georgia Rasmus, Patti Berger, Niki Danou, Brent Frank, Heidi Hammerback, Connie Johnson, Jeff Sambs; Gustavus Adolphus College—Laurent Dechery, Lisa Heldke, Scoot Moore; Hale Elementary—Patty Kypke, Mrs. Lotzer, Sarah Mickkelson, Mrs. Van Valkenburg, Candy Welschan; Hale/Field Community School—Tracey Schultz; Hamilton Elementary—Mrs. Kunkel; Hamline University—Garvin Davenport, Walter Enloe, Paul Gorski, Rita Johnson, Carol Mayer; Hancock/Hamline Magnet Elementary—Mr. Lein, Virginia Porter, Karen Rickey, Elizabeth Srigley, Allison Theissen, Margie Warrington; Hannahville Indian School (Wilson, MI); Harambee Elementary—Denise Abbott, Pam Booker, Melissa Hein, Nicole Napierala, Mrs. Robinson, Stacie Stanely; Harding High School—Harder Angie, Pete Bothun, Erik Brant, Daniel Cornell, Ms. Harper, Mr. Peterson; Harley Hopkins Elementary—Mr. Marrier; Harriet Bishop Elementary—Joe Risteau, Paul Wallenta; Hartley Elementary—Lori DeKruif; Hastings High School—Jerry Dempsey, Sue Gaul, Stephanie Jones, Nancy Ostrem, Laura Scott, Susan Varley-Gaul; Hastings Middle School—Jim Hanson, Ronda Keller, Robin Starch; Hawley Elementary—Lee Eklund, Jane Eklund; Haworth Public School, (Haworth, NJ)—Vito Nasta; Hawthorne Elementary—Jill Petersen; Hayden Heights Elementary—Peggy George, Ms. McQuade, Judith Bobnick, Be Cheuyee Vang; Hayes Elementary—Mr. Barry, Mrs. Gunderson, Mrs. Jansen, Dan Riely; Healy High School—Gary Banick; Hennepin County Semi Independent Living Skills—David Schuweiler; Henning Elementary—Nancy Brutlag; Henry Hill Intermediate School—Brian Franklin; Henry Sibley High

School—Larry Cannon, Corey Chirhart, Mr. Christianson, Aaron Kapaun, Mr. Livgard, Mark Tobias; Heritage Middle School—Kristi Cooper, Tony Gatti, Erin Hagen, Carol Larsen, Pamela Lienke, Jack Lineham, Hollie Monson-Haefel, Dave Schultz; Hermantown Early Education—Martha Troolin; Hermantown Elementary—Jan Peterson; Hermantown High School—Ellen Minter; Heron Lake-Okabena Public School—Mr. Olson; Hiawatha Elementary—Carol Dunn, Kathy Maarum, Kim McGowan, Jo Wells, Stafford Gutknecht; Hibbing Community College—Mr. Kraus; Hibbing High School—Lori Bandemer, Matt Bergan, Ross Harvey, Wayne Hysjalien, Pat McGauley, Carl Sandness, Rosser Van Harvewinkle; Hidden Hills Middle School—Tara Sugden; Hidden Oaks Middle School—Mary Ballsrud; Hidden Valley Elementary—David Bloomquist, Steve Kraft, Lynn Palin; High Park High School—Mr. Simmons; Highland Catholic School—Cara Hagen; Highland Elementary, (Apple Valley)—Phil Bribble, Nicole Leighton, Mrs. Scarpetta; Highland Elementary, (Columbia Heights)—Mrs. Davis, Kathleen Johnson; Highland Elementary (Edina)—Skye Sanford, Sue Johnson, Sue Mayerle, Mike Seaman, Mark Wallace; Highland Junior High (St. Paul)—Nancy Nelson; Highland Park Elementary (St. Paul)—Eileen Cotter, Dan Gorman, Danielle Porter Born, Gody Rider; Highland Park High School (St. Paul)—Michelle Costello, Charlotte Landreau, Ryan Redetzke, Anupma Sharma, Mr. Simmons, Roy Erickson, Lorraine Martin, Eraine Schmidt; Highland Park Junior High, (St. Paul)—Mrs. Banda, Tom Bedard, Leon Rogalia, Jim Migley; Highview Middle School—Maureen Hagg, Jon Larson, Jodie Maurere-Knudson, Ben Pennings, Andy Schmidt, Mary Verville; Highwood Hills Elementary—Lucy Heldmen, Mr. Gillis; Hill City High School—Mr. Baratto, Mr. Carlson; Hillcrest Elementary—Amy Gonzales, Judy Peterson; Hill-Murray School—Shane Rose, Renae Elert, Mary Grau-Stumpf, Andrew Hill, Mrs. Pottebaum, Denise; Hillside Elementary—Nicole Karnowski, David Krupa, Tiffany Shommer; Hilltop Elementary (Inver Grove Heights)—MaryAnn Curro; Hilltop Primary School (Minnetrista)—Craig Schmidt; Hilltop Primary School (Mound)—Jill Borg; Hinckley-Finlayson High School—Mr. Eaves, Patty Olson; Holland Community School—Mark Bergum, Gregory McDaniels; Holy Angels Academy—Gregg Sawyer; Holy Family Catholic School—Case Unverzagt, Jim Walker; Home School—Phyllis Ellefson, Mary Hanson, Pamela Henkel, Jan Roe, Kristen Ryan; Homecroft Elementary—Mr. Funk, Mrs. Jorgensen, Ms. Lewandski; Hoover Elementary—Mrs. Hanson, Mary Brown, Mrs. Starr; Hope Academy—Mary Brown; Hope Community Academy—Ms. Schmidt, Ms. Tao; Hopkins High School—Audrey Johnson, Karen Sandhoff, Danielle Viera, Rita Wigfield, Grey Bartz, Don Bates, Judy Bohn, Jerry Christian, Rolf Eisland, April Felt, Rob Fuhr, Sara Garcia, Kary Hansen, Jane Harris, Mr. Hoeger, Ms. Joddock, James Johnson, Cyndy Kalland, Dain Liepa, Carrie Lucking, Cassandra Oberempt, Rick Rexroth, Mrs. Sperling, Dan Tockman, David Williams; Hopkins North Junior High—Paula Len, Anne Campbell, Jennie Salzer, Andrea Yesnes, David Beckman, Rueben Garcia, Dani Jacobs, Janet Mortensen, Beth Oscar; Hopkins West Junior High—Kim Campbell, Sarah Roesler, John Sorensen, Gail Weinhold, Norah Garrison, Donna Philippot; Horace Mann Elementary—Heather Long, Judi Ronnei, Maria Spann; Houlton Elementary—Tim Hassler; Howard Lake-Waverly-Winsted School—Marilyn Eide, Paul Fabbe, Pam Halverson, Joan Johnson, Jim Weniger; Hoyt Lakes—Joan Sarich; Hudson Middle School—Ron Forehand, Mr. Grambow, Gayle Hoaglund; Hugo Elementary—Carla Triggs; Humboldt Senior High School—Mike Mencke, Diane Hopen; Hutchinson High School—Sue Hein; Hutchinson Park Elementary—Katie Weisenberger; IHM St. Lukes—Connie Wittek, Pauline Zweber; Independence Elementary—Joel Hagberg, Jolen Huston; Indian Mounds Elementary School—Mrs. Barclay, Shawn Conradi, Jody Petter; International School of Minnesota—Amy Blaubach, Susan Charter, Mrs. Edwards; Inver Grove Heights Middle School—Otto Mickelson, Josh Alexander, Lisa Dombroske, Jesse Kramer, Fran Mountain, Judy Pfingsten, Deb Schmidt; Inver Hills Community College—Judy DeBoer; InVEST (New Hope)—Lynn Trombley; Irondale High School—Joe Helm, Sarah Anderson, Stephanie Brandt, Ellen Clifford, Mara Corey, Mr. Domingos, Ms. Eklund, Jon Erickson, Mrs. Evans, Jame Nygaard, Ronald Olsen, Tom Rodefel, Andra Storla, Bill Sucha, Cynthia Thyren; Ironwood Area School District (Ironwood)—MI Marion Olson; Isanti Middle School—Carl Buepre, Patricia Peterson; Isham Elementary, (Wadsworth, OH)—Mrs. Striver; Island Lake Elementary—Kay Baker, Mrs. Frichard, Larry Gannon, Jacki Harren, Robin Lavelle, Kathy Robertson, Karen Saari, Dianne Schillinger, Hal Shaver, Ms. Westhuil; J. J. Hill Magnet—Elaine Bargo, Linda Anastus, Candy Schnepf, Eilene Bachman, Lynn Schultz, Ann Pannier, Angela Weckworth; Jack & Jill Preschool (Hopkins)—Carol Johnson; Jack and Jill Preschool (Roseville)—Ms. Jenny; Jackson Magnet, (St. Paul)—Tina Garcia, Duffy Hansen, Patricia LeFebvre; Jackson Middle School, (Champlin)—Brian Erlandson, Karla Haben, William Hintz, Nancy Johnson, Kari Lace, Dean Noren, Andrea Stack, Joe Thiel; Jefferson Elementary (Mankato)—Ron Arsenault, Linda Kilander; Jefferson Elementary (Minneapolis)—Anne LeDuc, Ms. Lyden, Loren Meinke, Sally Novatny, Lynn Ronning, Britta Walker; Jefferson Elementary (New Ulm)—Marlene Ingebritson, Cleo Matzke, Ms. Rotenberry; Jefferson High School (Bloomington)—Meredith Aby, Tim Anderson, Mark Caine, Sean Faulk, Dan Fretland, Heidi Jacobson, Lisa Leary, Mr. Lyons, Kathleen Morgan, Sandra Morgan, Teri Roder, Mr. Rotenberry, Schonn Schnitzer; Jenny Lind Elementary—Ms. Pencook; Jewish Community Center, ECC—Sondra Burkstein; John A. Johnson Elementary—Joclyn Webb, Polly Williams; John Adams Middle School—Kim Hewett, Deb Las, Dawn Sonju; John F. Kennedy Elementary—Christy Vosika; John Glenn Middle School—Janelle Fischler, Mr. Grill, Mr. Mullen, Denise Rupret, Anne Sawyer, John Siegrist, Travis Stewart; John Ireland School—Ms. Pape; John Marshall High School—Mr. Burnham, Rick Swenson; Johnson High School—Peggy Carnes, Rita Good, Mitchell McDonald, Kathy Thueson, Ned Widnagel; Johnsville Elementary—Jackie Nasland, Mr. West; Jonathan Elementary—Jeff Paulsen, Mr. Sullivan, Christine Taylor-Thone; Jordan Elementary—Mary Clawson; Jordan Park Community School—Ms. Covington; JW Smith, Mary Murphy; Kaposia Education Center—Ben Anderson, Mr. Ross, Frank Arend, Janelle Johnson, Mrs. Lee; Kasson-Mantorville Middle School—Becky Tri; Katherine Curren Elementary—Diane Bancroft, Mrs. Schappa; Keewaydin Elementary—Carol Fisher Craig Henderson, Linda Jensen, Mrs. Parsons, Mrs. Scanlon; Kelley High School—Ruth Cook; Kennedy Elementary (Lakeville)—Nathan Moudry; Kennedy Elementary (St. Joseph)—Jennie Heydt-Nelson; Kennedy High School, (Bloomington)—Jon Anderson, Frances Bressman, Mrs. Coval, Richard Green, Bill Johnson, Earl Lyons, Mr. Raymond, Matt Vollum; Kenneth Hall Elementary—Jean Nolby; Kenny Elementary—Danielle Duroche, Mellisa Engel, Laurie Hanzel; Kent-Meridian High School—Christine Robertson; Kenwood Elementary—Patty Sharp, Linda Smith; Kenwood Trail Junior High—Bryan Backstrom, Dan Bale, Amy Jo Hyde, Tim Leighton, Mr. Rousemiller, Sigrid Ruhmann; Kenyon-Wanamingo Elementary—Tony Donkers, Tracy Erlandson, Bonnie Rapp; Kerkhoven High School—Bill Wagner; Kimball Elementary—Dode Klien, Susan Sides; Kimberly Lane Elementary—Nancy Carlson, Greta Cender, Debra Donahue, Turi Hembre, Barbara Hughes; King of Grace Lutheran School—Steve Balza; King's Christian Academy—Chad Nuest, Brandi Schmidgal; Kingsland High School—Shirley Gangstad, Stephanie Derby; Kittson Central School District—Betty Shablow; L. H. Tanglen Elementary—Phyllis O'Brien, Kris Sand, Ms. Asproth, Kevin Athmann, Lisa Becker, Kari Bliss, Pam Weinhold, Kim Mach, Mr. Washington; L. O. Jacob Elementary—John Keran; La Cross Central High School—Brad Saron; Lake Country School—Larry Schaefer, Patricia Schaefer, Zoe Saint Mane; Lake Crystal Elementary School—Sue Hytjan; Lake Elmo Elementary—Jill Berkhof,

Mrs. Bolstorff, Ms. Dahl, Kelly Kane, Jo Ellen Tate, Paula Verstegan; Lake Harriet Community School—Upper Campus—Gino Marchetti, Calvin Boone, Zoe Meyer, Jeff Tousingnant, Kristin Siefert; Lake Harriet Community School—Lower Campus—Patricia Hauser, Barb Johnson, Jane Lyga Jones, Marilynn O'Donnell; Lake Junior High—Eric VanScoy; Lake Marion Elementary—Traci Radtke, Michelle Stewart, Ann Hoffman; Lake Myrtle Elementary, Harriet Robbins; Lake Ripley Elementary—Mimi Wendlandt; Lakeaires Elementary—Cristin Atkinson, Jean Anderson; Lakes International Language Academy—Aaron Arrendondo, Bobbi Jo Rademacher; Lakeside Elementary (Chicago)—Shanda Waller; Lakeside Elementary (Lindstrom)—Kay Oien; Lakeview Elementary, (Lakeville)—Timothy King, Mr. Arlt, Susan Clark, Kate Drexler-Booth, Nathan Earp, Julie Hassinger-Slezak, Paul Lund, Edith Mako; Lakeview Elementary (Robinsdale)—Mrs. Gilbertson, Barry Thorvilson

CHILDCARE MEANS PARENTS IN SCHOOLS

Mr. DURBIN. Mr. President, I rise to speak on behalf of the Childcare Means Parents in Schools Act. I am pleased to join Senator DODD and Senator SNOWE as a cosponsor of the measure. This bill would amend the CCAMPIS Program authorized under Higher Education Act to better facilitate the higher education of those students with children.

For college students who are parents, a safe, nurturing environment for one's children is integral to degree attainment. Nearly 40 percent of students at higher education institutions are over 25 years old and almost 30 percent of undergraduates have children. Most American families utilize childcare: 75 percent of children under 5 are in some type of childcare. And for most families, childcare is the second largest expense in their budget after rent or mortgage.

The Dodd-Snowe bill will modify the definition of ''low income student'' to extend childcare services to graduate students, international students and other students who would not qualify under the present language but may need childcare assistance. This bill also increases the program authorization to a level that could fund about one-quarter of the 4,000 colleges and universities eligible to apply. The amount of the minimum grant would be raised in order to make the grant process more cost-effective for applying institutions.

Good childcare is often recognized as a first step to school success. It also can be an essential part of the process of being a good student. The peace of mind afforded by the security of knowing one's child is well cared for frees higher education students to pursue their own studies with a more focused determination. Without that foundation, a college education may not be attained.

I urge my colleagues to support the bill and further extend the opportunity of higher education to parents across America.

SATELLITE HOME VIEWER ACT

Mr. LEAHY. Mr. President, I am very pleased that the other body just passed their version of the Satellite Home Viewer Act under suspension of the rules. H.R. 4518, the W.J. (Billy) Tauzin Satellite Television Act of 2004, is a strong bill.

During this process, I have heard from many Vermonters who are concerned about not being able to receive Vermont stations over satellite. Others have been concerned about possibly having their ability to receive certain stations terminated. One reason for these strong concerns is that Vermont has the highest percentage in the Nation of TV owners who receive programming using satellite dishes. One reason for this is our beautiful mountains and valleys which make it more difficult to receive TV signals using regular antennas.

The Hatch-Leahy Satellite Homer Viewer Extension Act of 2004 was approved by the Senate Judiciary Committee in June. All the members of the Judiciary Committee supported that bill.

In the other body, members of both the Judiciary Committee and the Energy and Commerce Committee worked together in a bipartisan fashion to craft a comprehensive bill which will be good for consumers and for the affected industries. That bill, if enacted, will be a boon to public television, the satellite industry, the movie, music and television industries, and to satellite dish owners throughout America.

I am especially pleased that it contains a provision which I worked on with my colleagues from New Hampshire, Senator SUNUNU and Senator GREGG. We, along with Senator JEFFORDS, introduced legislation to ensure that satellite dish owners in every county in each of our States would be able to receive signals, via satellite, from our respective in-State television stations. While our two States represent a small television market as compared to some of the major population markets, nonetheless this provision is very important to residents in six of our collective counties—two in Vermont and four counties in New Hampshire. The Senate bill, S. 2013, as reported in June by the Judiciary Committee also contained this provision just included in H.R. 4518.

In Vermont this will mean that satellite dish owners in Bennington and Windham Counties will be able to receive all Vermont network stations in addition to the out-of-State network stations they now receive.

It is very important that in the waning days of this Congress that the Senate enact this satellite legislation. In 1998 and 1999 over 2 million families were faced with the prospect of losing the ability to receive one or more of their satellite television network stations. Back then, Congress acted and not only protected access to those stations but also expanded consumer opportunities to receive more programming options.

Families who own satellite dishes may end up being the big losers if provisions of that act are not extended. Many Midwestern and Rocky Mountain States have vast areas where satellite dish owners receive imported network stations such as ABC, NBC, CBS or Fox. Thousands of these families do not have any other choices. They do not have access to TV stations over-the-air because of mountain terrain or distance from the broadcast towers. They do not have access to cable because of the rough terrain or the lack of population density which makes it economically impossible for cable companies to invest. Without access to network stations via satellite, over-the-air, or cable, those families will no longer be able to receive national news programming or other network TV programming.

If Congress does not reauthorize provisions of current law by December 31, 2004, hundreds of thousands of households will lose satellite access to network TV stations. Since information about subscribers is proprietary it is difficult for me to tell you exactly how many families will be affected by this, but I assure you it is not a small number.

The Senate Judiciary Committee got its job done in June. We reported a great bill out of committee without a single amendment and without a single nay vote. That bill was introduced on January 21, 2004, by Chairman HATCH and was cosponsored by myself and Senators DEWINE and KOHL. When the bill was reported out of committee on June 17, 2004, I noted that the bill does far more than just protect satellite dish owners from losing signals. I pointed out that the new satellite bill ''protects subscribers in every state, expands viewing choices for most dish owners, promotes access to local programming, and increases direct, head-to-head, competition between cable and satellite providers.''

I continued by saying that ''easily, this bill will benefit 21 million satellite television dish owners throughout the nation, and I am happy to note that over 85,000 of those subscribers are in Vermont.''

The Senate Judiciary Committee-reported bill, and the recently passed bill H.R. 4518, go far beyond protecting what current subscribers receive. The bills allow additional programming via satellite through adoption of the so-called ''significantly viewed'' test now used for cable, but not satellite subscribers. That test means that, in general, if a person in a cable service area that historically received over-the-air TV reception from ''nearby'' stations outside that area, those cable operators could offer those station signals in

that person's cable service area. In other words, if you were in an area in which most families in the past had received TV signals using a regular rooftop antenna then you could be offered that same signal TV via cable. By having similar rules, satellite carriers will be able to directly compete with cable providers who already operate under the significantly viewed test. This gives home dish owners more choices of programming.

In the past, Congress got the job done. Congress worked well together in 1998 and 1999 when we developed a major satellite law that transformed the industry by allowing local television stations to be carried by satellite and beamed back down to the local communities served by those stations. This marked the first time that thousands of TV owners were able to get the full complement of local network stations. In 1997 we found a way to avoid cutoffs of satellite TV service to millions of homes and to protect the local affiliate broadcast system. The following year we forged an alliance behind a strong satellite bill to permit local stations to be offered by satellite, thus increasing competition between cable and satellite providers.

We also worked with the Public Broadcasting System so they could offer a national feed as they transitioned to having their local programming beamed up to satellites and then beamed back down to much larger audiences.

Because of those efforts, in Vermont and most other States, dish owners are able to watch their local stations instead of getting signals from distant stations. Such a service allows television watchers to be more easily connected to their communities as well as providing access to necessary emergency signals, news and broadcasts.

I hope we are able to work together to finish this important satellite television bill in the few remaining days of this Congress.

OMNIBUS APPROPRIATIONS

Mr. CAMPBELL. Mr. President, I rise to express my support for the conference report accompanying those appropriations bills which, because of our pending adjournment, have been included as an omnibus package.

I intend to vote for this omnibus bill knowing full well that, like all bills, it is not perfect in every Senator's eyes.

I want to thank Chairman STEVENS and Ranking Member Senator BYRD as well as the chairman and ranking members of the Subcommittees for including my requests which are vital to Colorado. As America's third fastest growing State, our burgeoning population has placed great stress on our schools, hospitals, universities and transportation. Federal monies, which I have sought to earmark as an appropriation for Colorado, are extremely important.

In this omnibus conference report over $175 million will be flowing into Colorado.

Having said this, there is one section in the bill that concerns me. Partially because it affects my State, but more so because it was never considered in the committee of jurisdiction. Neither was it discussed in the conference committee on Wednesday, November 19 as we worked out the final House and Senate disagreements.

I did not know of the language as the bill came to the floor just before we adjourned for the year. In fact, in a multi-hundred page bill I was not aware of it until after it passed. But, as I understand it, this language is in keeping with a long standing practice of satisfying Native American land claims.

Let me give some historical perspective to this issue as I understand it. In 1971, the U.S. Congress passed a bill which was signed into law called the ''Native American Claims Settlement Act''. This was an effort to bring a degree of fairness to native tribes of America's newest State—Alaska—who had lost much of the use of their aboriginal land through the encroachment and settlement of non-natives.

As part of the settlement, the native peoples were given use of 44 million acres and a percentage of the royalties from oil and gas production thereon. They shared these royalties with State government and for the purposes of administering their tribal governments and revenues. Alaska natives and tribes became shareholders of Native Alaskan corporations. They also retained the same rights that tribes in the lower 48 States and as they pertained to the ''trust responsibility'' of the Federal Government.

As I understand the 1971 act, however, these tribal corporations around the city of Anchorage were not considered land based tribes and were treated differently in terms of rights and benefits they would have accrued had they been in control of aboriginal land. These native groups (corporations) were allowed to use their portion of the accumulated revenue, in the form of ''bidding credits'', to purchase either Federal or private land in Alaska or other States. I only know of four States where land was actually purchased. Alaska, California, Hawaii and Colorado are the four I am aware of, although there may have been others. I have never been able to find a comprehensive list of land purchased, if it even exists.

The Native Alaskan corporations were authorized in the 1971 act to ''partner'' with tribes in the lower 48 on business ventures. So, in effect, the lower 48 tribes became recipients of badly needed investment capital provided by the Native Alaskan corporations while their ''partner'' could petition the Federal Government to put the land into trust status.

One such purchase was in downtown Denver. It had been a piece of Federal land, adjacent to the Federal courthouse and was being used as a parking lot for court employees. That lot was not put into trust, but was owned by the Native Alaskan Corporation.

There were, at the time, some preliminary discussions between one of the Colorado land based Ute Indian tribes and one Native Alaskan corporation on how best to use this ''native'' land for economic development purposes.

These purposes were limited by a variety of other laws such as the 1988 Indian Gaming Regulatory Act, which did not allow tribes to have casino gaming unless they reached a negotiated agreement called a ''gaming compact'' with the State in which they were located. In turn, court decisions further complicated the picture. An example of this was in the Seminole vs. the State of Florida case. In 1996, the Supreme Court ruled that States cannot be ''forced'' to negotiate a compact with tribes as required by the 1988 Indian Gaming Regulatory Act.

At the time, I voided the discussions concerning the downtown piece of property about which I have spoken by implementing a suggestion from the Federal courts to submit a line item request to appropriate funds to purchase that parking lot back from the Native Alaska corporation. I did so and through subsequent appropriations secured the money to build a new Byron White Federal Court complex on that site.

Since I was not in the U.S. Senate in 1971, I can only give you my view of how that act affected this language in question. I don't know if it violates any existing statute, if my constituency would support or oppose it or if it is in keeping with the Native American Claims Settlement Act. This probably could have been flushed out through the hearing process had we seen it in bill form.

So, in closing Mr. President, because I was not aware of the language of this final conference report until about 2 hours ago and do not know the effect it would have on Colorado, I do not support that section. Since it is, however, included in a non-amendable conference report and, recognizing the importance of the money in this report to the State of Colorado, I will vote for the final report.

ADDITIONAL STATEMENTS

150TH ANNIVERSARY OF THE YMCA OF GREATER INDIANAPOLIS

• Mr. LUGAR. Mr. President, I rise today to call to the attention of my colleagues a signal anniversary that has occurred in my home State of Indiana, the 150th anniversary of the YMCA of Greater Indianapolis.

Since 1854, the YMCA of Greater Indianapolis has been committed not only to providing Hoosiers with an outlet

for social, mental, and physical development, but also has maintained a consistent adherence to community service. As one of the first 50 YMCAs chartered in North America, this institution, whose humble beginnings originated in the basement of the Second Presbyterian Church on Monument Circle, has grown to tremendous proportions. Currently serving more than 140,000 Hoosiers, the YMCA of Greater Indianapolis has partnered with over 120 churches, schools and other community groups to reach out to both the urban community along with the surrounding counties. In 2003, 4,688 volunteers, under the direction of the YMCA of Greater Indianapolis, donated their valuable time and energy to provide nearly 98,000 hours of service. Additionally, YMCA branches in Indianapolis presented almost $4 million for scholarships, program subsidies and varied community services.

I am pleased to take a moment to acknowledge the outstanding efforts the YMCA of Greater Indianapolis has afforded for the past century and a half, and I look forward to their future leadership in building stronger families and a stronger community.●

RETIREMENT OF GENERAL ED EBERHART

● Mr. ALLARD. Mr. President, today I would like to praise a man who for more than 36 years has served his country with honor and distinction. General Ralph E. Eberhart, or Ed his friends call him, will soon be retiring from the United States Air Force. He embodies that which we most value in our military leaders—visionary leadership, unwavering dedication, and mission accomplishment.

I would like to personally thank General Eberhart for his service to our great Nation. Not only do I remember our many discussions pertaining to national security, but I fondly recall sharing stories about Colorado. You see, General Eberhart started his long journey at the Air Force Academy in Colorado Springs. As fate would have it, he will soon be finishing his career where he started—in the great state of Colorado.

In the Spring of 1968, Ed Eberhart was sworn in as a Second Lieutenant in the United States Air Force. Since that day, General Eberhart has successfully mastered nine aircraft and totaled more than 5,000 flying hours in the cockpit. His service spanned tours of duty in Vietnam, Germany, Japan, and perhaps the toughest, at the Pentagon. General Eberhart's career was highlighted with numerous awards and decorations, and he has successfully attained four stars in the United States Air Force. In every job that the General has held, he has successfully fulfilled his obligations and made the advancements only a select few of his peers have made.

In February 2000, General Eberhart's success awarded him the honor of leading a combatant command for the United States, and he was soon confirmed as a triple-hatted commander. He was given the awesome responsibility of commanding not only the North American Aerospace Defense Command, or NORAD, but also U.S. Space Command and Air Force Space Command.

During his tenure as Commander of U.S. Space and Air Force Space Command, General Eberhart successfully led military space into a new era. The United States relies upon our space superiority and without it, we cannot maintain dominance of the battlefield. General Eberhart guided our spacelift operations to a 100 percent success rate, thus maintaining our assured access to space. Additionally, when he took command of U.S. Space Command, the United States had just begun to appreciate the value that space-based capabilities bring to the fight—especially after our air campaign in Kosovo. Because of General Eberhart's direction in the space arena—specifically regarding precision guided weapons—we were able to increase the effectiveness of our present capabilities by further integrating space capabilities with air, maritime and land assets. U.S. Space Command's contributions were later seen as the hallmarks of Operation Enduring Freedom in Afghanistan, which traces directly back to General Eberhart and his vision for the full integration of space and terrestrial units.

The general was also at the focus of our post-September 11 world while in command of NORAD. In 2001, Operation Noble Eagle saw NORAD go from having 14 military aircraft on alert around the Nation to more than 100 in a very short period of time. The response was necessary to protect our skies from internal threats that had manifested themselves in the most horrible of weapons—airliners filled with unsuspecting travelers. General Eberhart soon saw himself having to support continuous combat air patrols, including all the supporting logistics such as tankers and integrating NATO AWACS into that mission.

Ultimately, that fateful day of September 11 triggered not only a change in the focus of NORAD missions, but also showed the need for a unified command that focused on protecting our homeland. And who did the President of the United States trust to lead this new command? General Ed Eberhart. So again, Colorado was fortunate enough to be called home by General Eberhart as he began the challenge of building Northern Command while continuing to lead NORAD. As the combatant command charged with the defense of the homeland, Northern Command reached full operational capability ahead of schedule. Under General Eberhart's leadership, we have seen this unified command continue to fulfill its duties of protecting the American homeland.

It is apparent that while leading these commands, General Ed Eberhart exemplified visionary thinking. He tackled transformation in the space arena by stressing joint integration of space capabilities and then transformed the way the U.S. military defends our borders and supports civilian agencies with Northern Command.

I cannot express enough gratitude to General Eberhart for his service to our country while in the United States Air Force. We in Colorado were proud to host him as a cadet at the Academy, and continue to be proud when he took command in our great State nearly 30 years later. It was in these roles that I was thankfully given the opportunity to know Ed Eberhart on a personal and professional basis. As General Eberhart prepares to fly off into the wild blue yonder of retirement, I would again like to thank him for his 36 years of blood, sweat, and tears to our Nation, and I wish him and his wife, Karen, the very best in the future.●

RICHARD D. ''DICK'' LLOYD

Ms. MURKOWSKI. Mr. President, there is a standing joke among longtime Alaskans that visitors who come to Anchorage to view our glittering skyline, set off against the grandeur of the Chugach Mountains and the placid beauty of the Cook Inlet, haven't seen the ''real Alaska.''

Whether one agrees with this observation or not, all will agree that one does not have to travel far from Anchorage to experience our unique natural beauty and abundant wildlife. About 45 minutes from downtown Anchorage, easily accessible on paved roads, there is an oasis in Chugach State Park called the ''Eagle River Nature Center.''

The Eagle River Nature Center nestled in the Chugach Mountains is home to interpretive programs all year around. It is the starting point for miles of well-groomed hiking trails from which one can view moose and occasionally encounter bear. It has been described in terms like ''glorious, enchanting and captivating.'' A place to view snow covered mountains in hues of pink and orange illuminated by the alpenglow sunset. It is a place where John Muir and Theodore Roosevelt would feel right at home.

Born as the Chugach State Park Visitor Center, the facility was in danger of being lost to budget cuts. By 1996, the budget had dwindled to a mere $14,000 from $185,000 in 1981. The center needed a savior.

Then along came a remarkable individual, Richard D. ''Dick'' Lloyd. Dick recognized that volunteers can accomplish things that government agencies cannot and organized the existing volunteers into a non-profit organization to operate the facility. Dick and his wife Carole and Asta Spurgis formed the Friends of the Nature Center which took over and revitalized the visitor center and turned it into the world-class nature center it is today.

I have the sad duty of informing the Senate that Dick Lloyd passed away on

August 22, 2004 from pancreatic cancer at the age of 60. Dick's death was not sudden. He learned of his condition just before Christmas of 2002 when doctors predicted that he would have a few months to live.

But Dick didn't view this diagnosis as an excuse to slow down. Much to the contrary, he devoted his remaining days to the nature center he loved, sledding down the hills adjacent to the center in the winter, giving encouragement to young people maintaining the trails in the summer perched on a lawn chair because he was too weak to offer physical help. Some twenty days before his death he was promoting the nature center's hike-a-thon event called the ''Coyote Crawl''. In the words of his beloved wife Carole, ''That was Dick. He was taking care of his baby to the end.''

As Chief Executive Officer, Executive Director and co-founder of the Friends of Eagle River Nature Center, Dick's hard work, vision and stamina led the way in transforming the center into a model for public-private partnership in managing public parklands. Today, through his dedication and leadership, it is a centerpiece of Chugach State Park, providing unparalleled educational, economic and outdoor opportunities on a year-round basis.

For local students, it provides hands-on learning experiences with classes on natural sciences and the environment. For the Eagle River community, it generates significant economic activity by attracting tens of thousands of visitors each year from around the area and around the world. And for those who simply share Dick's love of Alaska's wild outdoors, it offers countless camping, hiking and other recreational opportunities.

Through the legacy of the Eagle River Nature Center, generations to come will share in the legacy of Richard D. Lloyd, a man with the vision to have a dream, the courage to pursue it and the strength to make it a reality.

MESSAGES FROM THE PRESIDENT

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

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting a nomination and a withdrawal which were referred to the Committee on Armed Services.

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

MESSAGE FROM THE HOUSE

At 1:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 918. An act to amend the Public Health Service Act to authorize a demonstration grant program to provide patient navigator services to reduce barriers and improve health care outcomes, and for other purposes.

H.R. 2023. An act to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

H.R. 2119. An act to provide for the conveyance of Federal lands, improvements, equipment and resource materials at the Oxford Research Station in Granville County, North Carolina, to the State of North Carolina.

H.R. 2929. An act to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes.

H.R. 2984. An act to amend the Agricultural Adjustment Act to remove the requirement that processors be members of an agency administering a marketing order applicable to pears.

H.R. 3015. An act to provide for the establishment of a controlled substance monitoring program in each State.

H.R. 3514. An act to authorize the Secretary of Agriculture to convey certain lands and improvements associated with the National Forest System in the State of Pennsylvania, and for other purposes.

H.R. 3858. An act to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

H.R. 4504. An act to improve protections for children and to hold States accountable for the safe and timely placement of children across State lines, and for other purposes.

H.R. 4555. An act to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards.

H.R. 4569. An act to provide for the development of a national plan for the control and management of Sudden Oak Death, a tree disease caused by the fungus-like pathogen Phytophthora ramorum, and for other purposes.

H.R. 4620. An act to confirm the authority of the Secretary of Agriculture to collect approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

H.R. 5011. An act to prevent the sale of abusive insurance and investment products to military personnel.

H.R. 5042. An act to amend the Department of Agriculture Organic Act of 1994 to ensure that the dependents of employees of the Forest Service stationed in Puerto Rico receive a high-quality elementary and secondary education.

H.J. Res. 57. Joint resolution expressing the sense of the Congress in recognition of the contributions of the seven Columbia astronauts by supporting establishment of a Columbia Memorial Space Science Learning Center.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 34. Concurrent resolution expressing the sense of the Congress that private health insurance companies should take a proactive role in promoting healthy lifestyles, and for other purposes.

H. Con. Res. 250. Concurrent resolution recognizing community organization of public access defibrillation programs.

H. Con. Res. 306. Concurrent resolution honoring the service of Native American Indians in the United States Armed Forces.

H. Con. Res. 480. Concurrent resolution recognizing the spirit of Jacob Mock Doub and his contribution to encouraging youth to be physically active and fit and expressing the sense of Congress that ''National Take a Kid Mountain Biking Day'' should be established in Jacob Mock Doub's honor.

The message further announced that the House has passed the following bill, without amendment:

S. 33. An act to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Ozark-St. Francis and Ouachita National Forests and to use funds derived from the sale or exchange to acquire, construct, or improve administrative sites.

The message also announced that the House has passed the following bill, with amendments:

S. 878. An act to authorize an additional permanent judgeship in the District of Idaho, and for other purposes.

The message further announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4850) 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, 2005, and for other purposes.

MEASURES REFERRED

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

H.R. 5011. An act to prevent the sale of abusive insurance and investment products to military personnel; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPECTER for the Committee on Veterans' Affairs.

*Robert Allen Pittman, of Florida, to be an Assistant Secretary of Veterans Affairs (Human Resources and Administration)

Robert N. Davis, of Florida, to be a Judge of the United States Court of Appeals for Veterans Claims for the term prescribed by law.

Mary J. Schoelen, of the District of Columbia, to be a Judge of the United States Court of Appeals for Veterans Claims for the term of fifteen years.

William A. Moorman, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims for the term of fifteen years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

Christopher J. LaFleur, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, none.
3. Children and Spouses, none.
4. Parents: Lydia B. LaFleur (mother): $25, 08/11/00, Hillary R. Clinton for NY Senate; $15, 09/10/02, Friends of Carl McCall.
5. Grandparents, none.
6. Brothers and Spouses, none.
7. Sisters and Spouses: Ingrid and Peter Yurchenco (sister and brother-in-law): $50, 01/20/00, Democratic National Committee; $50, 02/19/00, Democratic National Committee; $50, 05/17/00, Montgomery Democratic Club; $20, 06/06/00, Friends of Freeman & Wilson; $100, 07/03/00, Rush Holt for Congress; $50, 08/25/00, Democratic National Committee; $35, 09/24/00, Friends of Freeman & Wilson; $100, 09/29/00, Rush Holt for Congress; $100, 10/31/00, Rush Holt for Congress; $50, 11/01/00, Friends of Freeman & Wilson; $100, 02/28/01, 2001 Victory Fund, (NJ Democratic Committee); $50, 03/21/01, Montgomery Democratic Club; $100, 04/19/01, Rush Holt for Congress; $50, 07/19/01, Democratic National Committee; $100, 08/13/01, Friends of Freeman & Wilson; $100, 10/01/01, 2001 Victory Fund, (NJ Democratic Committee); $100, 10/28/01, WWW for Township Committee; $50, 02/19/02, Montgomery Democratic Organization; $35, 05/02/02, Jeffords for Vermont; $50, 11/05/02, Rush Holt for Congress; $50, 09/27/02, Karen Wintress for Township Committee; $50, 10/11/02, Cardin for Congress; $50, 05/22/03, Democratic National Committee; $25, 11/25/03, Democratic National Committee; $25, 03/06/04, John Kerry for President; $25, 03/22/04, John Kerry for President; $75, 04/10/04, Democratic National Committee.

B. Lynn Pascoe, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: B. Lynn Pascoe.

Post: Jakarta.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse: Diana L. Pascoe, none.
3. Children and Spouses: Kimberley and Christopher Farrell, none; Gwendolyn J. Pascoe, none.
4. Parents: Harrison B. (deceased) and Oma B. Pascoe, none.
5. Brothers and Spouses: Lewis and Judy Pascoe, none; Lowell (deceased) and Trudy Pascoe, none.

Ryan C. Crocker, of Washington, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Ryan C. Crocker.

Post: Ambassador to the Islamic Republic of Pakistan.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse: Christine Crocker, none.
3. Children and Spouses, none.
4. Parents: Carol Crocker, none; Howard Crocker (deceased 1971), none.
5. Grandparents, (deceased 1923).
6. Brothers and Spouses, none.
7. Sisters and Spouses, none.

Marcie B. Ries, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Marcie Berman Ries.

Post: Albania.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse: Charles P. Ries, none.
3. Children and Spouses: Alexander B. Ries, none; Meredith B. Ries, none.
4. Parents: Mona Berman (mother), $50, 2000, Rep. Wexler Reelection Committee; $100, 2004, John Kerry for President; $85, 2004, Democratic National Committee.

Carroll Berman (father), none.

5. Sisters and Spouses: Laura Berman, none.

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were placed on the Executive Calendar:

*Catherine Todd Bailey, of Kentucky, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Latvia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contribution made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Catherine Todd Bailey.

Post: Ambassador to Latvia.

Contributions, amount, date, donee:

1. Self: $2,000, 2004, Alice Forgy Kerr for Congress; $1,000, 1999, Anne Northup for Congress; $1,000, 1999, Anne Northup for Congress; $900, 2000, Anne Northup for Congress; $1,000, 2001, Anne Northup for Congress; $1,000, 2001, Anne Northup for Congress; $2,000, 2003, Anne Northup for Congress; $1,000, 2004, Anne Northup for Congress; $2,000, 2003, Bush-Cheney 2004 Inc.; $472, 1999, Bush for President Inc.; $527, 1999, Bush for President Inc.; $250, 2000, Bush for President Inc.; $1,000, 1999, Citizens for Bunning; $1,000, 1999, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 1999, Fletcher for Congress; $1,000, 1999, Fletcher for Congress; $1,000, 2002, HALPAC—Help America's Leaders Political Action Committee; $1,000, 2002, HALPAC—Help America's Leaders Political Action Committee; $1,000, 2003, HALPAC—Help America's Leaders Political Action Committee; $1,000, 2001, Hal Rogers for Congress; $1,000, 2001, John Thune for South Dakota; $200, 2003, Louisville & Jefferson County Republican Executive Committee; $1,000, 1999, McConnell Senate Committee 2002; $1,000, 1999, McConnell Senate Committee 2002; $1,000, 2002, Norm Coleman for US Senate; $25,000, 2003, Republican National Committee; $5,000, 1999, Republican Party of Kentucky; $5,000, 2000, Republican Party of Kentucky; $310, 2001, Republican Party of Kentucky; $310, 2001, Republican Party of Kentucky; $4,500, 2001, Republican Party of Kentucky; $200, 2003, Republican Party of Kentucky; $7,500, 2003, Republican Party of Kentucky; $1,000, 2004, Republican Party of Kentucky; $15,000, 1999, RNC Republican National State Elections Committee; $1,750, 2000, RNC Republican National State Elections Committee; $1,750, 2000, RNC Republican National State Elections Committee; $16,000, 2000, RNC Republican National State Elections Committee; $84,000, 2000, RNC Republican National State Elections Committee; $700, 2001, RNC Republican National State Elections Committee; $3,960, 2001, RNC Republican National State Elections Committee; $5,000, 2001, RNC Republican National State Elections Committee; $15,000, 2001, RNC Republican National State Elections Committee; $15,500, 2001, RNC Republican National State Elections Committee; $20,000, 2001, RNC Republican National State Elections Committee; $100,000, 2001, RNC Republican National State Elections Committee; $125,000, 2002, RNC Republican National State Elections Committee; $25,000, 2003, RNC Republican National State Elections Committee; $11,500, 2004, RNC Republican National State Elections Committee; $125,000, 2002, RNSEC; $24,660, 2001, RNSEC; $103,500, 2000, RNSEC; $20,000, 1999, 1999 State Victory Fund Committee.

2. Spouse: Irving W. Bailey, II: $1,000, 2000, Anne Northup for Congress; $1,000, 2000, Anne Northup for Congress; $1,000, 2001, Anne Northup for Congress; $1,000, 2002, Anne Northup for Congress; $2,000, 2004, Anne Northup for Congress; $2,000, 2004, Anne Northup for Congress; $1,000, 1999, Bush for President; $2,000, 2003, Bush-Cheney 2004 Inc.; $2,000, 2003, Bush-Cheney 2004 Inc.; $2,000, 2003, Bush-Cheney 2004 Inc.; $2,000, 2003, Bush-Cheney 2004 Inc.; $1,000, 2000, Citizens for Bunning; $1,000, 2,000, Citizens for Bunning; $1,000, 2000, Citizens for Bunning; $1,000, 2000, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 2002, HALPAC—Help America's Leaders Political Action Committee; $1,000, 2002, HALPAC—Help America's Leaders Political Action Committee; $1,000, 2000, Fletcher for Congress; $1,000, 2000, Fletcher for Congress; $1,000, 2001, Fletcher for Congress; $1,000, 1999, McConnell Senate Committee; $1,000, 1999, McConnell Senate Committee; $1,000, 1999, McConnell Senate Committee 2002; $1,000, 1999, McConnell Senate Committee 2002; $1,000, 2002, National Association of Small Business; $1,000, 2002, National Association of Small Business Investment Companies Political Action Committee; $1,000, 2003, National Association of Small Business; $1,000, 2003, National Association of Small Business Investment Companies Political Action Committee; $5,000, 2002, Republican Party of Florida Federal Campaign Account; $5,000, 2000, Republican Party of Kentucky; $5,000, 2000, Republican Party of Kentucky; $5,000, 2001, Republican Party of Kentucky;

$5,000, 2002, Republican Party of Kentucky; $5,000, 2001, Republican Party of Kentucky; $25,000, 2003, RNC Republican National State Elections Committee; $25,000, 2004, RNC Republican National State Elections Committee; $20,000, 2002, RNSEC; $20,000, 2002, RNSEC.

3. Children and Spouses: Chris Bailey, none.

Meredith Hernandez: $2,000, 2003, Citizens for Bunning; $2,000, 2004, Bush-Cheney 2004 Inc.; $13,500, 2004, RNC Republican National State Elections Committee.

Michele Thomas, none.

John Receveur, none.

De Bailey, none.

Rafael Hernandez Sainz, none.

Charles Thomas, none.

4. Parents: Martell Todd, deceased; John Todd, deceased.

5. Grandparents: Geneva Schwarzkopf, deceased; David Schawarzkopf, deceased; Warren Todd, deceased; May Gish Todd, deceased.

6. Sisters and Spouses: Marlene Stout: $2,000, 2004, Bush-Cheney 2004 Inc.

Pat Todd Petric, none.

Richard Stout: $2,000, 2004, Bush-Cheney 2004 Inc.

---

*Douglas Menarchik, of Texas, to be an Assistant Administrator of the United States Agency for International Development.

*Hector E. Morales, of Texas, to be United States Executive Director of the Inter-American Development Bank for a term of three years.

*Lloyd O. Pierson, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

*Lloyd O. Pierson, an Assistant Administrator of the United States Agency for International Development, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2009.

Department of State nominations beginning with Ryan C. Crocker and ending with Johnny Young, which nominations were received by the Seante and appeared in the Congressional Record on September 13, 2004.

*Nominee has committed to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

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

S. 2899. A bill to authorize the Secretary of the Interior to conduct a special resources study to evaluate resources along the coastal region of the State of Delaware and to determine the suitability and feasibility of establishing 1 or more units of the National Park System in Delaware, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. CAMPBELL, and Mr. INOUYE):

S. 2900. A bill to authorize the President to posthumously award a gold medal on behalf of Congress to Elizabeth Wanamaker Peratrovich and Roy Peratrovich in recognition of their outstanding and enduring contributions to civil rights and dignity of the Native peoples of Alaska and the Nation; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. HUTCHISON (for herself and Mr. BREAUX):

S. 2901. A bill for the relief of Rona Ramon, Asaf Ramon, Tal Ramon, Yiftach Ramon, and Noah Ramon; to the Committee on the Judiciary.

By Mr. CRAIG (for himself, Ms. STABENOW, and Mr. WYDEN):

S. 2902. A bill to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LUGAR:

S. 2903. A bill to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to passage or adoption of rules for athletic competitions and practices; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 2904. A bill to authorize the exchange of certain land in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mr. ENZI (for himself, Mrs. CLINTON, Mr. HAGEL, and Mr. SCHUMER):

S. 2905. A bill to protect members of the Armed Forces from unscrupulous practices regarding sales of insurance, financial, and investment products; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN (for himself, Ms. MIKULSKI, Mr. GRAHAM of Florida, Mr. CORZINE, Mr. HARKIN, Mr. DURBIN, Mr. FEINGOLD, Mr. ROCKEFELLER, and Mr. KOHL):

S. 2906. A bill to amend title XVIII of the Social Security Act to provide for reductions in the medicare part B premium through elimination of certain overpayments to Medicare Advantage organizations; to the Committee on Finance.

By Mr. DODD (for himself and Mr. KENNEDY):

S. 2907. A bill to amend the Public Health Service Act to improve the quality and efficiency of health care delivery through improvements in health care information technology, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER (for himself, Mrs. FEINSTEIN, Mr. ENSIGN, Ms. CANTWELL, Mr. DEWINE, and Mr. LEAHY):

S. 2908. A bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER:

S. 2909. A bill to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. REID:

S. Res. 448. A resolution designating the first day of April 2005 as ''National Asbestos Awareness Day''; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. BROWNBACK, and Mr. LEAHY):

S. Res. 449. A resolution encouraging the protection of the rights of refugees; to the Committee on Foreign Relations.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 450. A resolution to authorize testimony and representation in United States v. Daniel Bayly, *et. al;* considered and agreed to.

By Mr. DOMENICI (for himself, Mr. CRAIG, Mr. CRAPO, Ms. LANDRIEU, Mr. GRAHAM of South Carolina, Mr. FITZGERALD, Mr. SESSIONS, Mr. VOINOVICH, Mr. PRYOR, Mrs. LINCOLN, Mr. MILLER, and Mr. ALEXANDER):

S. Con. Res. 141. A concurrent resolution recognizing the essential role of nuclear power in the national energy policy of the United States and supporting the increased use of nuclear power and the construction and development of new and improved nuclear power generating plants; to the Committee on Energy and Natural Resources.

ADDITIONAL COSPONSORS

S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

S. 845

At the request of Mr. GRAHAM of Florida, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 845, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs.

S. 989

At the request of Mr. REID, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 989, a bill to provide death and disability benefits for aerial firefighters who work on a contract basis for a public agency and suffer death or disability in the line of duty, and for other purposes.

S. 1134

At the request of Mr. INHOFE, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1134, a bill to reauthorize and improve the programs authorized by the Public Works and Economic Development Act of 1965.

S. 1223

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1223, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 1369

At the request of Mr. AKAKA, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1369, a bill to ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the prescription drug benefits offered to enrollees under the plan generally.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1419

At the request of Ms. LANDRIEU, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1419, a bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

S. 1428

At the request of Mr. MCCONNELL, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1428, a bill to prohibit civil liability actions from being brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for damages or injunctive relief for claims of injury resulting from a person's weight gain, obesity, or any health condition related to weight gain or obesity.

S. 1728

At the request of Mr. SPECTER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1728, a bill to amend the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001.

S. 1784

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1784, a bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine.

S. 2146

At the request of Ms. LANDRIEU, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 2146, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S. 2425

At the request of Mr. COCHRAN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2439

At the request of Mrs. HUTCHISON, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2439, a bill to award a congressional gold medal to Michael Ellis DeBakey, M.D.

S. 2602

At the request of Mr. DODD, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Washington (Mrs. MURRAY), the Senator from Louisiana (Mr. BREAUX), the Senator from Washington (Ms. CANTWELL) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2602, a bill to provide for a circulating quarter dollar coin program to honor the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, and for other purposes.

S. 2623

At the request of Mr. KOHL, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2623, a bill to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide a 2-year extension of supplemental security income in fiscal years 2005 through 2007 for refugees, asylees, and certain other humanitarian immigrants.

S. 2647

At the request of Mr. HOLLINGS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2647, a bill to establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, to ensure effective interagency coordination, and for other purposes.

S. 2648

At the request of Mr. HOLLINGS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2648, a bill to strengthen programs relating to ocean science and training by providing improved advice and coordination of efforts, greater interagency cooperation, and the strengthening and expansion of related programs administered by the National Oceanic and Atmospheric Administration.

S. 2722

At the request of Mr. DURBIN, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2722, a bill to maintain and expand the steel import licensing and monitoring program.

S. 2764

At the request of Mr. DODD, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2764, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 2798

At the request of Mr. LUGAR, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2798, a bill to provide for increased planning and funding for health promotion programs of the Department of Health and Human Services.

S. 2807

At the request of Mr. CRAPO, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S . 2807, a bill to amend the Internal Revenue Code of 1986 to exempt containers used primarily in potato farming from the excise tax on heavy trucks and trailers.

S. 2828

At the request of Mr. MCCAIN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2828, a bill to amend the Federal Election Campaign Act of 1971 to define political committee and clarify when organizations described in section 527 of the Internal Revenue Code of 1968 must register as political committees, and for other purposes.

S. 2852

At the request of Mr. SANTORUM, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2852, a bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

S. 2861

At the request of Mrs. MURRAY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2861, a bill to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Virginia (Mr. WARNER), the Senator from Florida (Mr. GRAHAM) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as ''National Visiting Nurse Association Week''.

S. RES. 269

At the request of Mr. LEVIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Res. 269, a resolution urging the Government of Canada to end the commercial seal hunt that opened on November 15, 2003.

S. RES. 430

At the request of Mr. HATCH, the names of the Senator from Illinois (Mr.

FITZGERALD), the Senator from Michigan (Mr. LEVIN), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Res. 430, a resolution designating November 2004 as ''National Runaway Prevention Month''.

AMENDMENT NO. 3705

At the request of Ms. COLLINS, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 3705 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3742

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 3742 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3821

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 3821 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3827

At the request of Mr. STEVENS, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 3827 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3875

At the request of Mr. STEVENS, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Colorado (Mr. ALLARD), the Senator from Alabama (Mr. SESSIONS), the Senator from Texas (Mr. CORNYN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of amendment No. 3875 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3913

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 3913 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3915

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 3915 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3916

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 3916 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3945

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 3945 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 2899. A bill to authorize the Secretary of the Interior to conduct a special resources study to evaluate resources along the coastal region of the State of Delaware and to determine the suitability and feasibility of establishing 1 or more units of the National Park System in Delaware, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CARPER. Mr. President, a few minutes ago, I was recognized and I spoke about the first State. The first State is Delaware. Delaware became the first State December 7th, 1787, when we ratified the Constitution. For 1 week, Delaware was the entire United States of America. We opened things up for the rest of the country, and Pennsylvania came in, New Jersey, and others. For the most part, we are pleased the way it turned out.

It is ironic that the State that helped start this country, the State whose history is part of the fabric of this country's history, has no national park to celebrate our place in the founding of this country and the growth of this country over the last 200-some years.

A couple of years ago, my family and I were planning a vacation. We were trying to decide where to go. We were thinking about going to Alaska. We actually got on the National Park Service Web site to see about the national parks in Alaska. They have terrific national parks. We went up there and had a wonderful visit. Before we did that, we looked at that National Park Service Web site to see what other attractions there are in the other 49 States. There is a unit of the National Park Service in 49 States in this country, but we found nothing for Delaware.

For years gone by and for the immediate future when families like ours are deciding where they are going to go on their summer vacation in 2005 or 2006, they will have the same choices as they had in 2004 and the years before this, businesses, one of the most enduring businesses, large or small, in the United States.

There are other attractions. The Underground Railroad literally runs the length and breadth of our State. Many slaves found their freedom crossing the Christina River into northern Delaware not far from where the first Swedes landed just down the river.

A second hub would be located in the southern part of New Castle County along the Delaware River. Not far from where the hub would be is Fort Delaware. During the Confederate war, tens of thousands of Confederate soldiers were held prisoner at Fort Delaware, in the middle of the Delaware River. From that hub, Port Penn, along the Delaware River, will emanate to the spokes that lead to attractions, including Fort Delaware.

A third hub is Kent County, DE. Kent County, DE, is home of the Golden Fleece Tavern. On December 7, 1787, a band of several dozen men decided, after studying and debating the Constitution that had been sent out from Philadelphia, from the Constitutional Convention, they decided to ratify at the Golden Fleece Tavern on that cold December morning.

Not far from that is a place called John Dickinson Mansion. That mansion was home of a Delawarean who participated in the Constitutional Convention. At that Constitutional Convention, he worked with folks from Connecticut to develop the compromise that makes it clear that every State gets two Senators today and that all the States have representatives in the House of Representatives right down that hall in coordination with the size of the population of that State. That is just one of the many and those choices will not include a national park in Delaware or a unit of National Park in our State.

Senator BIDEN, a couple of years ago, tried to address this problem. For a while, the idea of creating a national park gave some thought to creating a national park in the Great Cyprus Swamp in the southeast corner. Those familiar with Bethany, Rehoboth, and Lewes may or may not know there is a huge swamp where the last of the bald cyprus in North America are. We thought of designating the Great Cyprus Swamp as a national park. The idea ran into some disfavor in southern Delaware and was abandoned.

I am delighted Senator BIDEN has joined in introducing today our legislation to call on the Department of the Interior to conduct a feasibility study to see if what we think is a great idea developed by our park committee in Delaware, led by Dr. Jim Soles over the last year, might find favor with the Department of the Interior, the Congress, and with the President.

The committee has envisioned four wheels, four hubs, starting in the northern part of our State in Wilmington, DE, where the first Swedes

and Finns came in 1638. They landed at Port Christina and established the colony of New Sweden. That hub will serve as a gateway through which visitors might come.

Think of a hub as a bicycle wheel with spokes emanating from the hubs, and the spokes would lead to attractions throughout the northern part of our State. One is the Hagley Museum, where the first powder mills were built along the banks of the Brandywine River providing support for what became the DuPont Company that has endured for over 200 attractions that would lead from the hub down to the spokes that people who come to the central part of our State might visit.

Further south in our State is a place called Lewes. It was settled by the Dutch back in the 1600s. It is a place that had been literally raided, attacked by Indians, wiped out, and came back to be a thriving, prosperous community. The history of early Lewes is captured in the Swaanendael Museum. Not far away is a beautiful State park, Cape Henlopen State Park, which a lot of people visit every year.

We have wildlife refuges in the southern and northern part of the State. There are tens of millions of birds that stop and feed on the way either to the southern hemisphere in the winter or on the way back up North in the spring.

Our State has a lot to offer. Our heritage is one that is rich and reflects the tapestry of our country we have had on the coastal regions of our State over the last 200 years. We do not want to keep it just to ourselves but share it with the rest of the country and the rest of the world.

We are excited to work with the Department of the Interior, our colleagues, and the administration, present or future, to establish a coastal heritage park for the State of Delaware so a year or two from now, when people sit with their families, turn on their computers, and go to the National Park Service Web site to see what is available around the country to visit, they will find a lot of good things about the other 49 States, but they will find some very special things in Delaware, too.

I thank Senators for the time to introduce this with my colleague, Senator JOE BIDEN.

Mr. CARPER. Mr. President, I rise today to introduce the Delaware National Coastal Special Resources Study Act. I am pleased to be joined in introducing this bill by Senator BIDEN. This bill authorizes the Secretary of the Interior to study the feasibility of establishing a National Park Service unit in Delaware.

Delaware is first in so many ways. Yet we are the only State without a National Park. Last year, I wondered whether Delawareans agreed with me that we should have a unit of the National Park Service. Through surveys and town meetings, I polled Delawareans on this question in 2003. The answer was a resounding and nearly unanimous ''yes.''

However, folks were less unanimous on where the park should be located and which aspect of Delaware it should feature. So I formed a 12-member committee representing communities throughout the State. They discussed many fine ideas, and narrowed them down to four proposals with a common thread. In one way or another, each proposal related to Delaware's coastal region.

The committee recommended joining these proposals. The result would be a national park highlighting America's history, cultural heritage, commercial progress and natural beauty. The Delaware National Coastal Heritage Park will reveal that the various threads that together make up the fabric of Delaware are an ideal microcosm for the tapestry of America.

To understand our proposal, first let me ask you to stop thinking about Yosemite or Yellowstone or Shenandoah. This proposal is not like those big, traditional national parks. Ours is a different, more innovative and creative way of thinking about a park. Delaware's coastal region is rich in historical sites, museums, parks, and wildlife areas. Together, these sites highlight the threads of history, heritage, commerce, and nature.

A series of four gateway hubs, or interpretive centers, located along the coast will guide visitors to the many existing attractions in the coastal communities that underlie the park. Connecting these attractions through the National Park Service will allow us to tell our unique story to the Nation.

And, as I'd like to demonstrate for you, our story is worth telling.

The history of America, beginning well before the first European settlers, is seen in the Lenni Lenape and Nanticoke Native American tribes. They settled and prospered in the area in and around Delaware thousands of years before the first European settlement in the early 1600s. Members of the modern Nanticoke Indian Association and the Lenape Tribe of Delaware trace their ancestry to the earliest inhabitants of Delaware's coastline. A visit to the Nanticoke Museum brings our early history to life.

Delaware's shores were explored by the Swedes, Dutch and English. Our small State was the subject of competing claims for its territory from the beginning of European settlement. The earliest colonial settlement in Delaware, known as Swaanendael, was established in 1631 in what is present day Lewes. The settlement ended in tragedy when it was wiped out in a clash with the local Native American population. The Swaanendael Museum in Lewes illustrates Delaware's Dutch roots.

The Swedes established the first permanent European settlement in the Delaware Valley. The *Kalmar Nyckel*, a replica of the ship that carried Swedes to our shores, is docked in Wilmington and currently hosts visitors from around the world.

Founded in Wilmington in 1638, Fort Christina was the earliest lasting bastion in the region. However, as a main line for coastal defense in America, Delaware boasts forts throughout the State. Forts displaying various methods and philosophies of coastal defense can be found along the Delaware River from Fort Delaware and Fort Dupont in New Castle County to Fort Miles in Sussex County. Delaware was the site of military action in both the Revolutionary War and the War of 1812. And at the onset of World War II, the U.S. Army established a military base at Cape Henlopen. You can still see the bunkers and gun emplacements that were camouflaged among the dunes along with the concrete observation towers that were built to spot enemy ships.

Delaware's pivotal role in America's fight for independence culminated in Caesar Rodney's legendary ride to Philadelphia to sign the Declaration of Independence. The Golden Fleece Tavern in Kent County was the meeting place where, on December 7, 1787, it was unanimously decided that Delaware would ratify the Constitution, giving us the distinction of being the First State.

Transportation was dominated by water. New Castle thrived as a port town, second only to Philadelphia. Additional ports in Wilmington and Lewes provided harbor for ocean-going vessels in the export trade. A walk through old New Castle is like stepping back in time.

Delaware historically holds the distinction of being one of America's most prosperous industrial, economic and commercial centers. Some of the Nation's leading ship and rail building establishments were located in the State, as were textile and papermaking companies. Frenchman Eleuthere lrenee duPont founded a gunpowder mill on the banks of the Brandywine River near Wilmington. The history of the DuPont Company is captured at the scenic Hagley Museum.

Delaware's role in the Underground Railroad is too important not to tell. There are documented Underground Railroad sites all over the State. Underground Railroad historians believe that Harriet Tubman made numerous trips through Delaware after her own daring escape. Tubman-Garrett Park in Wilmington overlooks the spot where escaping slaves swam across the Christina River as part of their journey. Wilmington and Camden in Kent County were considered safe stations on the way to freedom. Through the Delaware National Coastal Heritage Park, more Americans could come to understand the historic road to freedom traveled by thousands of enslaved Africans.

Delaware is not only rich in history. It is also famed for its natural refuges and conservatories. William Penn proclaimed that Cape Henlopen and its natural resources were for the common

usage, thus establishing some of the Nation's first ''public lands.'' Some of America's earliest beach resorts sprouted up along the Delaware Bay and coastline during the mid-to-late 19th century. They remain in use to this day. The Bombay Hook National Wildlife Refuge is an important link in the Atlantic Flyway, a trail of wildlife refuges used by migrating birds each year. This makes Bombay Hook a must-see for bird watchers and nature lovers. The Little Creek Wildlife area is a 4,500 acre mecca for crabbers and fishermen.

This is just a taste of the scenic beauty, ethnic heritage, and historical significance that greet visitors to Delaware's coastal shores. The national park selection committee realized that these events and places are threads of human and natural activity that create the very fabric of our society. And the committee realized that a park unit that helped local residents and visitors alike recognize and understand these threads would be a very appropriate and fitting addition to the National Park system. Our national park would demonstrate that coastal regions like those found in Delaware are a vital part of America's past, present, and future.

But the committee also felt that the park itself should be very different from traditional parks. Instead of a large landmass, the park will be structured much like a series of four bicycle wheels, each with a hub and spokes. The hubs will be interpretive centers located strategically along the coastline. Local residents and tourists would learn about how our coastline has contributed to the development of our State and our Nation. These centers would provide information and guidance about the many, many existing historic sites, natural areas, recreational opportunities and other attractions that are part of our coastal region. The spokes will be the multitude of attractions and sites that demonstrate the threads of America's history and scenic beauty.

The gateway hub will be located at the 7th Street Peninsula at the site of the original Fort Christina. There are various attractions within a short walking distance related to the coastal theme of the park. This site would also provide information, advice and directions about other sites in the Wilmington area. It might also include a visitor's center, park headquarters, perhaps a replica of the original Fort Christina.

A second hub would be located along the Delaware River in southern New Castle County. It would provide information on attractions such as Fort Delaware on Pea Patch Island, Fort DuPont and the renowned historic district in the old city of New Castle as well other related attractions in New Castle County.

The third hub would be located in Kent County, also along the coast of the Delaware River. It would provide information on the existing preserved natural areas and on the myriad other attractions in Kent County including the John Dickinson Mansion, Dover's historic Green and others.

A Sussex County hub would be located in the Lewes area and would provide information on the numerous historic sites and natural areas that have made Sussex County's coastal region so pivotal to Delaware.

Together, these four interpretive centers would direct visitors to the many existing attractions that would help our guests understand and appreciate the many threads of Delaware's Coastal Region—threads that help make up the fabric of America.

Every year, millions of Americans plan their vacations around our Nation's national park system. They log onto the Park Service website and search for ideas for their family vacations. Right now, that search will turn up nothing for Delaware. With a national park unit here in Delaware, that will change.

In the future, those families will be considering a trip to Delaware to visit our Coastal Heritage Park. Those trips will be a significant boost to our economy—they will create jobs and economic activity that can only be good for our State.

Just as important—or maybe even more important—these additional visitors will bring more attention to our existing historic sites and other attractions. That additional attention will help guarantee they are preserved for future generations.

By encouraging more Delawareans themselves to visit these wonderful places, a National Park unit will help enrich our own understanding of our own history.

I have described to you today a vision resulting from the hard work of many dedicated Delawareans. Today, I take the next step in making their vision a reality.

The bill I've introduced today—the Delaware National Coastal Special Resources Study Act—authorizes the National Park Service to conduct a ''Special Resource Study'' to make recommendations as to the feasibility of this proposal. The study itself would take from 1 to 2 years to complete and would include estimated costs of implementing the proposal.

I believe this is an exciting proposal and one that, when incorporated into the National Park System, will become an important element in preserving the wonderful human and natural history presented by our coastal region.

l 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. 2899

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 ''Delaware National Coastal Special Resources Study Act''.

SEC. 2. STUDY.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the ''Secretary'') shall conduct a special resources study of the national significance, feasibility of long-term preservation, and public use of sites in the coastal region of the State of Delaware.

(b) INCLUSION OF SITES IN THE NATIONAL PARK SYSTEM.—The study under subsection (a) shall include an analysis and any recommendations of the Secretary concerning the suitability and feasibility of—

(1) designating 1 or more of the sites along the Delaware coast as units of the National Park System that relate to the themes described in section 3; or

(2) establishing a national heritage area that incorporates the sites along the Delaware coast that relate to the themes described in section 3.

(c) STUDY GUIDELINES.—In conducting the study authorized under subsection (a), the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System contained in section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(d) CONSULTATION.—In preparing and conducting the study under subsection (a), the Secretary shall consult with—

(1) the State of Delaware;

(2) the coastal region communities; and

(3) the general public.

SEC. 3. THEMES.

The study authorized under section 2 shall evaluate sites along the coastal region of the State of Delaware that relate to—

(1) the history of indigenous peoples, which would explore history of Native American tribes of Delaware, such as the Nanticoke and Lenni Lenape;

(2) the colonization and establishment of the frontier, which would chronicle the first European settlers in the Delaware Valley who built fortifications for the protection of settlers;

(3) the founding of a nation, which would document the contributions of Delaware to the development of our constitutional republic;

(4) industrial development, which would investigate the exploitation of water power in Delaware with the mill development on the Brandywine River;

(5) transportation, which would explore how water served as the main transportation link, connecting Colonial Delaware with England, Europe, and other colonies;

(6) coastal defense, which would document the collection of fortifications spaced along the river and bay from Fort Delaware on Pea Patch Island to Fort Miles near Lewes;

(7) the last stop to freedom, which would detail the role Delaware has played in the history of the Underground Railroad network; and

(8) the coastal environment, which would examine natural resources of Delaware that provide resource-based recreational opportunities such as crabbing, fishing, swimming, and boating.

SEC. 4. REPORT.

Not later than 1 year after funds are made available to carry out this Act under section 5, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report containing the findings, conclusions, and recommendations of the study conducted under section 2.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. BIDEN. Mr. President, today I rise in support of the Delaware National Coastal Special Resources Study Act and join my colleague, Senator CARPER, in asking this body to support our efforts to construct the Delaware National Coastal Heritage Park. Delaware is the only State not to have a national park and we feel strongly that the time has come. Today, through this legislation, we are asking the Secretary of the Interior to study the feasibility of establishing a National Park Service unit in the State of Delaware.

As I stand before you, I know what most of you are thinking. Do we have an area worthy of such designation? Do we have picturesque mountains like the Grand Tetons or the Great Smokey Mountains? Are people drawn to our coasts to find the spirituality of JoshuaTree? Do we possess landscape on par with the beauty and serenity of Acadia National Park? Well, in a word, yes. A little of all of the magnificence found in some of our Nation's most famous parks can be found in our State of Delaware and that is why the proposal presented by Senator CARPER is so unique and worthy of the next step.

I have to commend my colleague. Senator CARPER brought together a committee of dedicated Delawareans to analyze the validity of a national park in the State of Delaware. After much deliberation, the committee suggested a series of four interpretive centers, scattered throughout the state, to highlight the many treasures of our state. While there are numerous sites identified in the proposal, I would just like to take a moment to speak to several that have been especially close to me in my years in the Senate.

Pea Patch Island is a 228-acre park located off the coast of Delaware City, Delaware that houses Fort Delaware, one of our country's oldest Civil War-era fortifications and Delaware's oldest State Park. The island, with its fort, seawall and other archeological remains, is listed on the National Registry of Historic Places. The island also houses a State nature preserve, providing critical habitat to thousands of wading birds. It is also the largest heronry north of Florida.

Delaware also played a special role in the Underground Railroad and the proposal will highlight the 18 sites in Delaware including a hideout at the Governor's mansion, the court house where abolitionist Thomas Garrett was tried, the Mother African Church in Wilmington where an African American Festival founded in 1814 was used as a cover to help slaves escape is still celebrated, and numerous other sites utilized by the principal Underground Railroad conductor, Harriet Tubman.

Finally, I would like to mention our coastline, our beaches. Now into October, we have said goodbye to another fantastic beach season with millions of people visiting our shores. The historic sites and wildlife refuges that dot our coastline are unique to the area and to the Nation.

These links to Delaware's past are important to our Nation's future and I am proud to join my colleague in supporting this legislation.

By Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. CAMPBELL, and Mr. INOUYE):

S. 2900. A bill to authorize the President to posthumously award a gold medal on behalf of Congress to Elizabeth Wanamaker Peratrovich and Roy Peratrovich in recognition of their outstanding and enduring contributions to civil rights and dignity of the Native peoples of Alaska and the Nation; to the Committee on Banking, Housing, and Urban Affairs.

Ms. MURKOWSKI. Mr. President, I was proud to join with my colleagues and tens of thousands of America's first peoples, including a substantial contingent of Alaska Natives, in participating in the opening ceremonies for the National Museum of the American Indian. I don't have to tell you what a special week this was for the first peoples of America and particularly for my Alaska Native people. We take pride in our new National Museum of the American Indian and all that it represents. First and foremost, it represents a commitment on the part of the American people that the substantial contributions of American Indians, Alaska Natives and Native Hawaiians be preserved in perpetuity in a prominent location adjacent to the U.S. Capitol. It represents a commitment that the Native experience will not be lost to history.

Today, I want to share with the Senate a piece of Native history that is very significant to the Native people of Alaska and indeed, the first peoples of our entire Nation. It is the story of a Tlingit couple, Roy and Elizabeth Peratrovich. Roy and Elizabeth are to the Native peoples of Alaska what Dr. Martin Luther King, Jr. and Rosa Parks are to African Americans. Everybody knows about Dr. Martin Luther King, Jr. and Rosa Parks, but hardly anyone outside the State of Alaska knows about Roy and Elizabeth Peratrovich. That is going to change today.

Elizabeth was born in 1911, about 17 years before Dr. King. She was born in Petersburg, AK. After college she married Roy Peratrovich, a Tlingit from Klawock, AK; and the couple had three children. Roy and Elizabeth moved to Juneau. They were excited about buying a new home. But they could not buy the house that they wanted because they were Native. They could not enter the stores or restaurants they wanted. Outside some of these stores and restaurants there were signs that read ''No Natives Allowed.'' History has also recorded a sign that read ''No Dogs or Indians Allowed.''

On December 30, 1941, following the invasion of Pearl Harbor, Elizabeth and Roy wrote to Alaska's Territorial Governor:

> In the present emergency our Native boys are being called upon to defend our beloved country. There are no distinctions being made there. Yet when we patronized good business establishments we are told in most cases that Natives are not allowed.
>
> The proprietor of one business, an inn, does not seem to realize that our Native boys are just as willing to lay down their lives to protect the freedom he enjoys. Instead he shows his appreciation by having a 'No Natives Allowed' sign on his door.

In that letter Elizabeth and Roy noted:

> We were shocked when the Jews were discriminated against in Germany. Stories were told of public places having signs, ''No Jews Allowed.'' All freedom loving people were horrified at what was being practiced in Germany, yet it is being practiced in our own country.

In 1943, the Alaska Legislature, at the behest of Roy and Elizabeth considered an anti-discrimination law. It was defeated. But Roy and Elizabeth were not defeated. Two years later, in 1945, the anti-discrimination measure was back before the Alaska Legislature. It passed the lower house, but met with stiff opposition in the Alaska Senate.

One by one Senators took to the floor to argue against the mixing of the races. A church leader testified that it would take thirty to one hundred years before Alaska Natives would reach the equality of the white man.

Elizabeth Peratrovich rose from the gallery and said she would like to be heard. She was recognized, as was the custom of the day. In a quiet, dignified and steady voice she said, ''I would not have expected that I, who am barely out of savagery, would have to remind gentleman with five thousand years of recorded history behind them of our Bill of Rights.'' She was asked by a Senator if she thought the proposed bill would eliminate discrimination, Elizabeth Peratrovich queried in rebuttal, ''Do your laws against larceny and even murder prevent these crimes? No law will eliminate crimes but at least you legislators can assert to the world that you recognize the evil of the present situation and speak your intent to help us overcome discrimination.''

When she finished, there was a wild burst of applause from the gallery and the Senate floor alike. The territorial Senate passed the bill by a vote of eleven to five. On February 16, 1945, Alaska had an anti-discrimination law that provided all citizens of the territory of Alaska are entitled to full and equal enjoyment of public accommodations. Following passage of the anti-discrimination law, Roy and Elizabeth could be seen dancing at the Baranof Hotel, one of Juneau's finest. They danced among people they didn't know. They danced in a place where the day before they were not welcome.

There is an important lesson to be learned from the battles of Elizabeth and Roy Peratrovich. Even in defeat, they knew that change would come

from their participation in our political system. They were not discouraged by their defeat in 1943. They came back fighting and enjoyed the fruits of their victory two years later.

Nineteen years before the United States Congress prohibited discrimination in public accommodations in the Civil Rights Act of 1964; eighteen years before Dr. Martin Luther King, Jr. spoke of his dream on the steps of the Lincoln Memorial—Alaska had a civil rights law. Elizabeth would not live to see the United States adopt the same law she brought to Alaska in 1945. She passed away in 1958 at the age of 47.

The State of Alaska has acknowledged Elizabeth Peratrovich's contribution to history by designating February 16 of each year as Elizabeth Peratrovich Day. It has also designated one of the public galleries in the Alaska House of Representatives as the Elizabeth Peratrovich Gallery.

But what about Roy? Why has his role not been recognized? Roy Peratrovich passed away in 1989 at age 81. He died 9 days before the first Elizabeth Peratrovich Day was observed in the State of Alaska. Perhaps it was because Roy was still alive at the time this honor was bestowed; it is Elizabeth that has gotten all the credit for passage of the anti-discrimination law.

Members of the Peratrovich family tell me that this is not entirely unjustified because without Elizabeth's stirring speech the anti-discrimination law would not have passed. But they also point out, as does the historical record, that Elizabeth and Roy were a focused and effective team. History should recognize that the anti-discrimination law was enacted due to the joint efforts of Roy and Elizabeth Peratrovich. I rise today to do my part toward that end.

Joined by my colleague, the distinguished senior Senator from Alaska, Mr. STEVENS, the distinguished Chairman of the Senate Committee on Indian Affairs, Mr. CAMPBELL and the distinguished Vice Chairman of that committee, Mr. INOUYE, I offer legislation to recognize the contributions of Roy and Elizabeth Peratrovich with a Congressional Gold Medal. Congressional Gold Medals have been awarded to a number of African- Americans who have made contributions to the cause of civil rights, among them, Rosa Parks, Roy Wilkins, Dorothy Height, the nine brave individuals who desegregated the schools of Little Rock, Arkansas and others involved in the effort to desegregate public education.

As our Nation focuses on the many contributions of our first people and the challenges they have faced throughout our Nation's history with the opening of the National Museum of the American Indian, it is high time that we also acknowledge the work of American Indians, Alaska Natives and Native Hawaiians in the struggle for civil rights and social justice. Honoring Elizabeth and Roy Peratrovich's substantial contribution with a Congressional Gold Medal is a fine start.

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. 2900

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

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Elizabeth Wanamaker, a Tlingit Indian, was born on July 4, 1911, in Petersburg, Alaska.

(2) Elizabeth married Roy Peratrovich, a Tlingit Indian from Klawock Alaska, on December 15, 1931.

(3) In 1941, the couple moved to Juneau, Alaska.

(4) Roy and Elizabeth Peratrovich discovered that they could not purchase a home in the section of Juneau in which they desired to live due to discrimination against Alaska Natives.

(5) In the early 1940s, there were reports that some businesses in Southeast Alaska posted signs reading ''No Natives Allowed''.

(6) Roy, as Grand President of the Alaska Native Brotherhood and Elizabeth, as Grand President of the Alaska Native Sisterhood, petitioned the Territorial Governor and the Territorial Legislature to enact a law prohibiting discrimination against Alaska Natives in public accommodations.

(7) Rebuffed by the Territorial Legislature in 1943, they again sought passage of an antidiscrimination law in 1945.

(8) On February 8, 1945, as the Alaska Territorial Senate debated the anti-discrimination law, Elizabeth, who was sitting in the visitor's gallery of the Senate, was recognized to present her views on the measure.

(9) The eloquent and dignified testimony given by Elizabeth that day is widely credited for passage of the antidiscrimination law.

(10) On February 16, 1945, Territorial Governor Ernest Gruening signed into law an act prohibiting discrimination against all citizens within the jurisdiction of the Territory of Alaska in access to public accommodations and imposing a penalty on any person who shall display any printed or written sign indicating discrimination on racial grounds of such full and equal enjoyment.

(11) Nineteen years before Congress enacted the Civil Rights Act of 1964, and 18 years before the Reverend Dr. Martin Luther King, Jr. delivered his ''I have a Dream'' speech, one of America's first antidiscrimination laws was enacted in the Territory of Alaska, thanks to the efforts of Elizabeth and Roy Peratrovich.

(12) Since 1989, the State of Alaska has observed Elizabeth Peratrovich Day on February 16 of each year and a visitor's gallery of the Alaska House of Representatives in the Alaska State Capitol has been named for Elizabeth Peratrovich.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized, on behalf of the Congress, to posthumously award a gold medal of appropriate design to Elizabeth Wanamaker Peratrovich and Roy Peratrovich, in recognition of their outstanding and enduring contributions to the civil rights and dignity of the Native peoples of Alaska and the Nation.

(b) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (in this Act referred to as the ''Secretary'') shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, and at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

The medals struck under this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. FUNDING.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund such sum as may be appropriated to pay for the cost of the medals authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

By Mrs. HUTCHISON (for herself and Mr. BREAUX):

S. 2901. A bill for the relief of Rona Ramon, Asaf Ramon, Tal Ramon, Yiftach Ramon, and Noah Ramon; to the Committee on the Judiciary.

Mrs. HUTCHISON. Mr. president, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2901

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

SECTION 1. PERMANENT RESIDENT STATUS FOR RONA RAMON, ASAF RAMON, TAL RAMON, YIFTACH RAMON, AND NOAH RAMON.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Rona Ramon, Asaf Ramon, Tal Ramon, Yiftach Ramon, and Noah Ramon shall each be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Rona Ramon, Asaf Ramon, Tal Ramon, Yiftach Ramon, or Noah Ramon enters the United States before the filing deadline specified in subsection (c), he or she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Rona Ramon, Asaf Ramon, Tal Ramon, Yiftach Ramon, and Noah Ramon, the Secretary of State shall instruct the proper officer to reduce by 5, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section

203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) of such Act (8 U.S.C. 1152(e)).

(e) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Rona Ramon, Asaf Ramon, Tal Ramon, Yiftach Ramon, and Noah Ramon shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

By Mr. CRAIG (for himself, Ms. STABENOW, and Mr. WYDEN):

S. 2902. A bill to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CRAIG. Mr. President, I rise today to introduce the ''Specialty Crop Competitiveness Act of 2004.'' This bipartisan legislation co-sponsored by the distinguished Senator from Michigan, Senator STABENOW, increases the focus on the contribution that specialty crops add to the United States agricultural economy. This bill specifically provides the proper and necessary attention to many challenges faced throughout each segment of the industry.

Most do not realize the significance of specialty crops and their value to the U.S. economy and the health of U.S. citizens. According to the United States Department of Agriculture Economic Research Service, fruits and vegetables alone added $29.9 billion to the U.S. economy in 2002. This figure does not even include the contribution of nursery and other ornamental plant production.

The specialty crop industry also accounts for more than $53 billion in cash receipts for U.S. producers, which is close to fifty-four percent of the total cash receipts for all crops. A surprising fact to some is that my State of Idaho is the Nation's fourth largest producer of specialty crops. Idaho proudly boasts production of cherries, table grapes, apples, onions, carrots, several varieties of seed crops and of course one of our most notable specialty crops, potatoes.

Maintaining a viable and sustainable specialty crop industry also benefits the health of America's citizens. Obesity continues to plague millions of people today and is a very serious and deepening threat not only to personal health and well-being, but to the resources of the economy as well. This issue is now receiving the necessary attention at the highest levels, and specialty crops will continue to play a prominent role in reversing the obesity trend.

The ''Specialty Crop Competitiveness Act'' will also provide a stronger position for the U.S. industry in the global market arena. This legislation promotes initiatives that will combat diseases both native and foreign that continue to be used as non-tariff barriers to U.S. exports by foreign governments. Additionally, provisions in this bill seek improvements to Federal regulations and resources that impede timely consideration of industry sanitary and phytosanitary petitions. This bill does not provide direct subsidies to producers like other programs. This legislation takes a major step forward to highlight the significance of this industry to the agriculture economy, the benefits to the health of U.S. citizens, and the need for a stable, affordable, diverse, and secure supply of food.

Although we near the end of the 108th Congress. I look forward to working with my colleagues and the Administration now to consider this comprehensive and necessary legislation.

Ms. STABENOW. Mr. President, I rise to join my colleague Senator CRAIG in introducing The Specialty Crop Competitiveness Act of 2004. This legislation would help increase the production and consumption of fruits and vegetables in the United States. I would like to thank my colleague Senator CRAIG for his hard work and leadership on this legislation, and his outstanding commitment to the specialty crop community.

Fruits and vegetables are vital to good health, and far too many Americans do not consume enough of the fresh fruits and vegetables that they desperately need. Increased consumption of fresh produce will provide tremendous health and economic benefits to consumers and growers.

For far too long, specialty crops have been ignored by the United States Department of Agriculture. The majority of crops grown in America, from apples, pears, and cherries, to tomatoes, carrots, cucumbers, and nursery plants do not receive the same subsidies or USDA consideration as program crops. All of our farmers work hard and take a great gamble every year to produce and receive a return on their crops. They gamble against heat, drought, frost, storms, and more recently a flood of foreign produce to our markets.

I represent a diverse agricultural State, and I want American farmers to understand that this legislation is in no way designed to take away funding from program crops, but rather to bring specialty crops up to the status of program crops. This legislation would address a number of issues critical to our nation's specialty crop growers. First, it would create a specialty crop block grant to state agriculture departments to support production-related research, commodity production, nutrition, food safety and inspection and other competitiveness enhancing programs.

The legislation would also improve our growers' access to foreign markets. Thus far, many of our trade agreements have failed to open new markets to our growers, but rather have created new headaches. Our markets have faced problems from new invasive species, currency manipulation, and a flood of products, such as apple juice concentrate, which have invaded hurt our Nation's growers. Therefore, this legislation would require the Animal Plant Health Inspection Service (APHIS) to create a division that would handle industry petitions on sanitary and phytosanitary barriers to specialty crop exports. It would increase the technical assistance funding for specialty crop and study the effects of recent trade agreements and propose a strategy for specialty crop producers to more effectively benefit from international trade opportunities. In order to benefit our farmers, we must ensure that free trade is fair trade.

Also important to my home State of Michigan is the Tree Assistance Program (TAP), which is designed to provide financial relief to growers who lose trees and vines due to natural causes. This past summer in Michigan, a number of our fruit growers suffered damage from hail storms on the western side of our State. TAP funds will be critical to restoring trees and vines damaged in the storms. However, it take a number of years to obtain a return on new fruit trees. Because of the high per acre cost of establishing perennial crops, our legislation would increase the limitation on assistance under the TAP from $75,000 to $150,000 for each eligible farm.

In addition, this legislation would correct a two year old misinterpretation by the USDA. The 2002 Farm Bill states that at least $200 million must be spent annually on the purchase of specialty crops. The Farm Bill Conference Report emphasizes that the allocated $200 million is to be used for additional purchases, over and above the purchases made under current law. For example in 2001, the USDA purchased $243 million in fresh fruits and vegetables; therefore the new total under the Farm Bill should be $443 million in purchases.

Unfortunately, the USDA is not complying with this provision. Instead of adding the $200 million on top of baseline spending for school lunch and senior programs, USDA has eliminated the baseline spending so there is no guarantee of any new spending on fruits and vegetables for our children. In fact, in 2002 USDA did not even meet the minimum purchase requirement; only $181 million in fresh fruits and vegetables were purchased. The Specialty Crops Competitiveness Act will correct this discrepancy and provide our Nation's children with much needed fruits and vegetables.

Supporting our Nation's specialty crop growers and providing nutritious fruits and vegetables to our nation's consumers is vital to ensuring our own health and the health of our economy. I am proud to introduce this legislation and I hope that my colleagues will join me in its support.

By Mr. LUGAR:

S. 2903. A bill to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to passage or adoption of rules for athletic competitions and practices; to the Committee on the Judiciary.

Mr. LUGAR. Mr. President, I rise today in order to express my support for the Nonprofit Athletic Organization Protection Act of 2004.

Our country has invested a tremendous number of resources in providing our children with the ability to play sports. In every town in America, you will find boys and girls playing America's most popular sports: baseball, soccer, football and, of course, basketball. A recent study by the Sporting Goods Manufacturers Association showed that in 2000 at least 36 million American children played on at least one team sport. Of those 36 million, 26 million children between the ages of 6–17, played on an organized team in an organized league. A study by Statistical Research, Inc. for the Amateur Athletic Foundation and ESPN found that 94 percent of American children play some sport during the year.

The ability for children to participate in sporting events provides our society many benefits that government cannot provide. Studies have shown that these benefits include betterment to a child's health, academic performance, social development and safety.

It is no wonder that the most obvious benefit of organized sports is physical fitness. The National Institute of Health Care Maintenance has identified physical activity such as sports as a key factor in the maintenance of a healthy body. Lack of physical activity, along with unhealthy eating habits, has been identified as the leading cause of obesity in children. The center notes: ''Physical activity provides numerous mental and physical benefits to health, including reduction in the risk of premature mortality, cardiovascular diseases, hypertension, diabetes, depression, and cancers.'' The Washington Times reported on May 14th of this year that a Cooper Institute for Aerobics Research study indicated, ''Low fitness outranks fatness as a risk factor for mortality.'' By encouraging our children to participate in organized sports, we increase physical fitness and fight obesity.

A second benefit in the participation of organized sports is an increase in academic performance. The National Institute of Health Care Maintenance has highlighted ''a recent largescale analysis reported by the California Department of Education [has shown] that the level of physical fitness attained by students was directly related to their performance on standardized achievement measures.'' When we encourage our children to participate in organized sports, we increase the ability for them to achieve academically.

A third benefit for young people who participate in organized sports is that they learn positive social development. Organized sports teach values of teamwork, fair play, and friendly competition. Success in organized sports is also a vital self-esteem builder in many children.

These three benefits have been widely discussed on the floor of the Senate and we have acted to implement several programs designed to reduce obesity and increase fitness, educational standards and the social well-being of our children.

The fourth benefit to participation in organized youth sports, providing a safe place to play, is a topic that has not received as much attention as the first three. Nonetheless, it is no less important. Fewer kids are simply going outside to play, due to the attraction of TV, video games, and the Internet, combined with parents' safety concerns about letting children run around outside unsupervised. As a result, organized sports teams are an increasingly important source of safe physical activity in children. The American Academy of Pediatrics has stated, ''In contrast to unstructured or free play, participation in organized sports provides a greater opportunity to develop rules specifically designed for health and safety.''

One primary reason why organized sports provide such an opportunity for safe play is that non-profit, volunteer organizations establish rules to provide a safe place to play. These organizations are made up of professional people who are in the business of providing children a fun and safe avenue for athletic exercise. Organizations like the Boys and Girls Club, the National Council of Youth Sports, the National Federation of State High School Associations and others exist largely to establish rules in order to minimize the risk of injury our children face while participating in sports. No matter how well these organizations perform their work, however, boys and girls will be injured.

Over the last several years, more and more of these rule making bodies have become targets for lawsuits seeking to prove that the rule maker was negligent in making the rules of play. These lawsuits claim that had a different rule been in place, the injury would not have happened. Indeed, these suits place rule makers into a Catch–22. A child can be injured in almost any situation no matter how a rule is written. The result has been to have more and more lawsuits.

As a consequence, the insurance premiums of these organizations have risen dramatically over the past several years. In his testimony before the House Judiciary Committee this past July, Robert Kanaby the Executive Director of the National Federation of State High School Associations testified that: ''Over the last three years, the annual liability insurance premiums for the National High School Federation have increased three-fold to about $1,000,000. We have been advised by experts that given our claims experience and the reluctance of insurers to offer such coverage to an organization 'serving 7,000,000 potential claimants,' the premiums will likely increase significantly in years to come. Since we operate on a total budget of about $9,000,000, such an increase would be, to put it mildly, problematical.'' The costs have increased to the point where it is possible that these organizations will cease from providing age appropriate rules and the safety of youth sports will decline.

Because of this problem, I am introducing today the Nonprofit Athletic Organization Protection Act of 2004. This legislation will eliminate lawsuits based on claims that a non-profit rulemaking body is liable for the physical injury when the rule was made by a properly licensed rulemaking body that has acted within the scope of its authority. Lawsuits may be maintained if the rule maker was grossly negligent or engaged in criminal or reckless misconduct. This reasonable legislation will help sports rule makers to do their job. If we do not pass this legislation, it is likely that rule makers will eventually close their doors since they will be unable to afford the insurance needed to provide a safe sporting environment.

No one who has participated in the debate surrounding this problem has disagreed that the current lawsuit culture needs reform. Instead, two concerns have arisen regarding the scope of the legislative remedy: first, that the remedy was overly broad preventing law suits against rule makers on other issues; second, that this legislation would prevent lawsuits against rule makers who are negligent.

To remedy these concerns, the legislation introduced today contains a provision that explicitly says that lawsuits involving ''antitrust, labor, environmental, defamation, tortuous interference of contract law or civil rights law, or any other federal, state, or local law providing protection from discrimination'' are not barred by this bill.

The additional provision would also provide no legal immunity from lawsuit if the rule maker has authority to determine coach eligibility. Additionally, the PROTECT Act passed last year, we authorized a pilot program that enabled the National Center for Missing and Exploited Children to do background checks on coaches who participate in certain programs. This program has been successful, weeding out many who would potentially harm our children. So much so that last Friday, by unanimous consent, Senators HATCH and BIDEN shepherded through an extension of this program for an additional 18 months with an aim of eventually making this program permanent.

As my colleagues know, I am a runner. I enjoy the activity and the positive effect that running and athletics have played in my life. I would hope

that my nine grandchildren will be able to have an opportunity to participate in organized sports and that lawsuits against rule makers for allegedly faulty rules will not prevent these organizations from functioning properly. I encourage my colleagues to support passage of this legislation.

By Mr. CAMPBELL:

S. 2904. A bill to authorize the exchange of certain land in the State of Colorado; to the Committee on Energy and Natural Resources.

Mr. CAMPBELL. Mr. President, I am today introducing legislation to complete a small land exchange between the U.S. Forest Service, Bureau of Land Management and Pitkin County at the Ashcroft Townsite near Aspen, CO. This exchange is long overdue, as it has been over a decade since work on this proposal began.

I am very pleased to assist this particular land exchange because it will result in the Forest Service acquiring a piece of land known as the ''Ryan Property'', which is one of the most scenic properties in the entire Aspen area . . . and that's saying a lot!

I am personally familiar with the Ryan Property and its truly spectacular scenery, and would like to note that the Ryan Property was the training ground for the U.S. Army's famous 10th Mountain Division during World War II before the more well-known Camp Hale was built near Leadville.

The Ryan Property also has a series of extremely popular cross country skiing trails, which connect the trails on adjacent Forest Service lands, and lie adjacent to the heavily-used Cathedral Lake Trail and trailhead. This is a truly magnificent piece of land that my bill will convey into permanent public ownership.

The acquisition of these lands by the Forest Service will complete the Ashcroft Preservation Project, initiated by the Forest Service in 1980 to protect the scenic and historic beauty of the Ashcroft area.

As I indicated earlier, completion of this land exchange has not been without difficulty. Indeed, the exchange was first suggested by the Forest Service in 1992. In the year 2000, Pitkin County and the Aspen Valley Land Trust purchased the property, at the request of the Forest Service, to keep it from development until a land exchange could be completed.

Unfortunately, since that time, procedural difficulties, personnel changes, and changing priorities have hindered completion of the exchange. As well, various alternative exchange land packages have been discussed and agreed upon by the parties involved over the years.

Finally, this year, an agreement was reached between the Forest Service, BLM, and Pitkin County to go forward with a three-party exchange, and it is my intention to help them finish it. While this exchange will follow according to existing regulations, with my bill Congress will direct that it occur, so that the types of problems which have prevented its completion thus far will not delay it further.

Additionally, with the special provisions written into this legislation, upon completion of the exchange the County and Land Trust will actually be donating land value to the United States, which is a great benefit for the public.

Accordingly, I am introducing my legislation today in the hopes that it still might be able to see some action this fall. I note that the exchange has the support of a broad array of governmental and non-profit entities including Pitkin County, the City of Aspen, the Aspen Valley Land Trust, the Aspen Skiing Company, the Roaring Fork Conservancy, Ashcroft Ski Touring, Wilderness Workshop, Conservation Fund, and many others.

It is my feeling that this is exactly the type of consensus land conservation effort we should all be supporting, and hope for swift and successful passage of this 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. 2904

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 ''Pitkin County Land Exchange Act of 2004''.

SEC. 2. PURPOSE.

The purpose of this Act is to authorize, direct, expedite, and facilitate the exchange of land between the United States, Pitkin County, Colorado, and the Aspen Valley Land Trust.

SEC. 3. DEFINITIONS.

In this Act:

(1) ASPEN VALLEY LAND TRUST.—

(A) IN GENERAL.—The term ''Aspen Valley Land Trust'' means the Aspen Valley Land Trust, a nonprofit organization as described in section 501(c)(3) of the Internal Revenue Code of 1986.

(B) INCLUSIONS.—The term ''Aspen Valley Land Trust'' includes any successor, heir, or assign of the Aspen Valley Land Trust.

(2) COUNTY.—The term ''County'' means Pitkin County, a political subdivision of the State.

(3) FEDERAL LAND.—The term ''Federal land'' means—

(A) the approximately 5.5 acres of National Forest System land located in the County, as generally depicted on the map entitled ''Ryan Land Exchange-Wildwood Parcel Conveyance to Pitkin County'' and dated August 2004;

(B) the 12 parcels of National Forest System land located in the County totaling approximately 5.92 acres, as generally depicted on the map entitled ''Ryan Land Exchange-Smuggler Mountain Patent Remnants-Conveyance to Pitkin County'' and dated August 2004; and

(C) the approximately 40 acres of Bureau of Land management land located in the County, as generally depicted on the map entitled ''Ryan Land Exchange-Crystal River Parcel Conveyance to Pitkin County'' and dated August 2004.

(4) NON-FEDERAL LAND.—The term ''non-Federal land'' means—

(A) the approximately 35 acres of non-Federal land in the County, as generally depicted on the map entitled ''Ryan Land Exchange-Ryan Property Conveyance to Forest Service'' and dated August 2004; and

(B) the approximately 18.2 acres of non-Federal land located on Smuggler Mountain in the County, as generally depicted on the map entitled ''Ryan Land Exchange-Smuggler Mountain-Grand Turk and Pontiac Claims Conveyance to Forest Service''.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(6) STATE.—The term ''State'' means the State of Colorado.

SEC. 4. LAND EXCHANGE.

(a) IN GENERAL.—If the County offers to convey to the United States title to the non-Federal land that is acceptable to the Secretary, the Secretary and the Secretary of the Interior shall—

(1) accept the offer; and

(2) on receipt of acceptable title to the non-Federal land, simultaneously convey to the County, or at the request of the County, to the Aspen Valley Land Trust, all right, title, and interest of the United States in and to the Federal land, subject to all valid existing rights and encumbrances.

(b) TIMING.—

(1) IN GENERAL.—Except as provided in paragraph (2), it is the intent of Congress that the land exchange directed by this Act shall be completed not later than 1 year after the date of enactment of this Act.

(2) EXCEPTION.—The Secretary, the Secretary of the Interior, and the County may agree to extend the deadline specified in paragraph (1).

SEC. 5. EXCHANGE TERMS AND CONDITIONS.

(a) EQUAL VALUE EXCHANGE.—The value of the Federal land and non-Federal land to be exchanged under this Act—

(1) shall be equal; or

(2) shall be made equal in accordance with subsection (c).

(b) APPRAISALS.—

(1) IN GENERAL.—The value of the Federal land and non-Federal land shall be determined by the Secretary through appraisals conducted in accordance with—

(A) the Uniform Appraisal Standards for Federal Land Acquisitions;

(B) the Uniform Standards of Professional Appraisal Practice; and

(C) Forest Service appraisal instructions.

(2) VALUE OF CERTAIN FEDERAL LAND.—In conducting the appraisal of the parcel of Federal land described in section 3(3)(C), the appraiser shall not consider the easement required for that parcel under subsection (d)(1) for purposes of determining the value of that parcel.

(c) EQUALIZATION OF VALUES.—

(1) SURPLUS OF NON-FEDERAL LAND.—If the final appraised value of the non-Federal land exceeds the final appraised value of the Federal land, the County shall donate to the United States the excess value of the non-Federal land, which shall be considered to be a donation for all purposes of law.

(2) SURPLUS OF FEDERAL LAND.—

(A) IN GENERAL.—If the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land, the value of the Federal land and non-Federal land may be equalized by the County—

(i) making a cash equalization payment to the Secretary;

(ii) conveying to the Secretary certain land located in the County, comprising approximately 160 acres, as generally depicted on the map entitled ''Sellar Park Parcel'' and dated August 2004; or

(iii) using a combination of the methods described in clauses (i) and (ii), as the Secretary and the County determine to be appropriate.

(B) DISPOSITION AND USE OF PROCEEDS.—

(i) DISPOSITION OF PROCEEDS.—Any cash equalization payment received by the Secretary under subparagraph (A)(i) shall be deposited in the fund established by Public Law 90–171 (commonly known as the ''Sisk Act'') (16 U.S.C. 484a).

(ii) USE OF PROCEEDS.—Amounts deposited under clause (i) shall be available to the Secretary, without further appropriation, for the acquisition of land or an interest in land in the State for addition to the National Forest System.

(d) CONDITIONS ON CERTAIN CONVEYANCES.—

(1) CONDITIONS ON CONVEYANCE OF CRYSTAL RIVER PARCEL.—

(A) IN GENERAL.—The Secretary of the Interior shall not convey to the County the parcel of land described in section 3(3)(C) until the County grants to the Aspen Valley Land Trust, the Roaring Fork Conservancy, or any other entity acceptable to the Secretary of the Interior and the County, a permanent conservation easement to the parcel, the terms of which—

(i)(I) provide public access to the parcel; and

(II) require that the parcel shall be used only for recreational, fish and wildlife conservation, and open space purposes; and

(ii) are acceptable to the Secretary of the Interior.

(B) REVERSION.—In the deed of conveyance that conveys the parcel of land described in section 3(3)(C) to the County, the Secretary of the Interior shall provide that title to the parcel shall revert to the United States at no cost to the United States if—

(i) the parcel is used for a purpose other than that described in subparagraph (A)(i)(II); or

(ii) the County or the entity holding the conservation easement elect to discontinue administering the parcel.

(2) CONDITIONS ON CONVEYANCE OF WILDWOOD PARCEL.—

(A) IN GENERAL.—Before the Secretary conveys to the County the parcel described in section 3(3)(A), the Secretary shall require the County, at the expense of the County, to transmit to the Secretary a quitclaim deed to the parcel that permanently relinquishes any claim that, before the date of introduction of this Act, was brought against the United States asserting the right, title, or interest of the claimant in and to the parcel.

(B) RESERVATION OF EASEMENT.—In the deed of conveyance of the parcel described in section 3(3)(A) to the County, or at request of the County, to the Aspen Valley Land Trust, the Secretary shall, as determined to be appropriate by the Secretary in consultation with the County, reserve to the United States a permanent easement to the parcel for the location, construction, and public use of the East of Aspen Trail.

SEC. 6. MISCELLANEOUS PROVISIONS.

(a) INCORPORATION, MANAGEMENT, AND STATUS OF ACQUIRED LAND.—

(1) IN GENERAL.—Land acquired by the Secretary under this Act shall become part of the White River National Forest.

(2) MANAGEMENT.—On acquisition, land acquired by the Secretary under this Act shall be administered in accordance with the laws (including rules and regulations) generally applicable to the National Forest System.

(3) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9), the boundaries of the White River National Forest shall be deemed to be the boundaries of the White River National Forest as of January 1, 1965.

(b) REVOCATION OF ORDERS AND WITHDRAWAL.—

(1) REVOCATION OF ORDERS.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(2) WITHDRAWAL OF FEDERAL LAND.—On the date of enactment of this Act, if not already withdrawn or segregated from entry and appropriation under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), the Federal land is withdrawn, subject to valid existing rights, until the date of the conveyance of the Federal land to the County.

(3) WITHDRAWAL OF NON-FEDERAL LAND.—On acquisition of the non-Federal land by the Secretary, the non-Federal land is permanently withdrawn from all forms of appropriation and disposition under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(c) BOUNDARY ADJUSTMENTS.—The Secretary with jurisdiction over the land and the County may agree to—

(1) minor adjustments to the boundaries of the Federal land and non-Federal land; and

(2) modifications or deletions of parcels and mining claim remnants of Federal land or non-Federal land to be exchanged on Smuggler Mountain.

(d) MAP.—If there is a discrepancy between a map, acreage estimate, and legal or other description of the land to be exchanged under this Act, the map shall prevail unless the Secretary with jurisdiction over the land and the County agree otherwise.

By Mr. ENZI (for himself, Mrs. CLINTON, Mr. HAGEL, and Mr. SCHUMER);

S. 2905. A bill to protect members of the Armed Forces from unscrupulous practices regarding sales of insurance, financial, and investment products; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENZI. Mr. President, I rise today with my colleague from New York to introduce legislation to stop the sale of questionable financial products through hard sales tactics to our military personnel and their families. Over the course of recent months, it has become increasingly clear that the lack of clear lines in the oversight of insurance and securities sales on military bases has allowed certain individuals to push high cost financial products on unknowing military personnel. This practice must be stopped now. Our soldiers and their families deserve much better than that especially since they are putting themselves on the front line day after day for our freedom.

The bill that we introduce today will halt completely the sale of a mutual fund-like product that charges a 50-percent sales commission against the first year of contributions by a military family. Currently, there are hundreds of mutual fund products available on the market that charge less than 6 percent. The excessive sales charges of these contractually based financial products make them susceptible to abusive and misleading sales practices. Unfortunately, a small group of individuals target these products almost entirely to military families.

In addition, certain life insurance products are being offered to our service members disguised and marketed as investment products. These products provide very low death benefits while charging very high premiums, especially in the first few years. Many of these products are unsuitable for the insurance and investment needs of military families.

One of the major problems with the sales of insurance products on military bases is whether State insurance regulators or military base commanders are responsible for the oversight of sales agents. Typically, military base commanders will bar certain sales agents from a military base only to have the sales agents show up at other military facilities. Since there is no record of the bar, State insurance regulators have been unable to have adequate oversight of the individuals. The bill that we introduce today will rectify that problem. It will state clearly that State insurance regulators have jurisdiction of the sale of insurance products on military bases.

In addition, the bill will urge State insurance regulators to work with the Department of Defense to develop life insurance product standards and disclosures. The Department of Defense also will keep at list of individuals who are barred or banned from military bases due to abuse or unscrupulous sales tactics and to share that list with Federal and State insurance, securities and other relevant regulators.

Finally, the bill that we are introducing today will protect our military families by preventing investment companies to issue periodic payment plan certificates, the mutual fund-like investment product with extremely high first-year costs. This type of financial instrument has been criticized by securities regulators since the late 1960s.

We believe that this legislation is but the first step in helping our military families. Last year, I worked with Senators SHELBY, SARBANES, AKAKA and STABENOW to develop financial literacy initiatives for the Federal Government and for students. My colleague from New York and I will be working next year to strengthen the financial literacy programs for military personnel. By providing military families with the tools to analyze and compare financial products, we will give them an advantage over sales agents who attempt to sell high cost financial and insurance products ill-suited to military life.

It should be noted that there are many upstanding financial and insurance companies that sell very worthwhile investment and insurance products to military families. They should be applauded for the fine job that they do in helping our families. This bill is targeted at the few who abuse the system and prey upon our military in times when our country needs them the most.

Last night, a similar bipartisan bill passed the House of Representatives by

an overwhelming vote of 396–2. Congress is fully aware of the dangers faced by our military personnel in keeping our country safe from harm. Likewise, we must do all that we can to arm our soldiers when they face the dangers of planning for their financial futures.

I urge my colleagues to take up this bill immediately so that we can help our men and women in the military and their families.

By Mr. BINGAMAN (for himself, Ms. MIKULSKI, Mr. GRAHAM of Florida, Mr. CORZINE, Mr. HARKIN, Mr. DURBIN, Mr. FEINGOLD, Mr. ROCKEFELLER, and Mr. KOHL):

S. 2906. A bill to amend title XVIII of the Social Security Act to provide for reductions in the medicare part B premium through elimination of certain overpayments to Medicare Advantage organizations; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, on a late Friday afternoon back on September 3, 2004, the Bush Administration announced, just before the Labor Day holiday weekend, that there will be a 17.4 percent increase in the Medicare Part B premium for seniors and people with disabilities. The increase would raise premiums for seniors and people with disabilities from $66.60 per month to $78.20 per month and represents the largest dollar increase in the history of the Medicare program.

In fairness, the premium is set in statute to reflect 25 percent of Medicare Part B spending. However, a large share of the increase is due directly to provisions that were included in the Medicare prescription drug bill that passed last year that did far more to help HMOs, insurance companies, and drug companies than it did for Medicare beneficiaries. In fact, because of this formula, the dramatic increase in payments made to HMOs and insurance companies also has the very unfortunate effect of increasing the Medicare premium, even for seniors and people with disabilities that either do not have access to an HMO or choose not to enroll in an HMO.

As a result, today I am introducing legislation, the ''Affordability in Medicare Premiums Act,'' with Senators MIKULSKI, GRAHAM of Florida, CORZINE, HARKIN, DURBIN, FEINGOLD, ROCKEFELLER, and KOHL, that would reduce the 17.4 percent premium increase announced by the Administration and instill greater fairness in the Medicare premium in the future. It would do so in three ways.

First, the bill recognizes that one of the contributing factors in the dramatic increase in the Medicare premium was the enactment of provider and managed care plan payment increases in the Medicare drug bill. In the case of payments targeted exclusively to managed care plans, the Congressional Research Service has estimated that payments to HMOs will increase by 17.4 percent between 2004 and 2005. The CMS Office of the Actuary estimates that the vast majority of the increase comes from payments to HMOs over and above that made to traditional Medicare for either preventive services or in the physician payment adjustment.

As a result of these targeted increases in payments just to HMOs, Dr. Brian Biles, with George Washington University and the Commonwealth Fund, has estimated that HMOs will be paid $2.7 billion, or 7.8 percent, in excess of traditional, fee-for-service Medicare in 2005. Moreover, the Medicare Payment Advisory Commission, or MedPAC, has found that in almost one-third of the counties in the United States will have payments to HMOs that will exceed that of traditional Medicare by more than 20 percent.

I voted against the Medicare prescription drug bill, in part due to the overpayments made to HMOs in that legislation. If the rhetoric behind private insurance plans is that they will modernize and save Medicare money, it certainly makes little sense to overpay them by what the CMS Office of the Actuary estimates to be $50 billion over the next 10 years. That is why I have cosponsored legislation to eliminate that overpayment.

In the meantime, for the 89 percent of Medicare enrollees that choose not to enroll or do not even have access to a Medicare HMO, they certainly should not have to pay 25 percent of the Part B costs of the overpayment or excessive subsidies to managed care plans through what is now called the Medicare Advantage program, as they are required to now.

Consequently, our legislation, the ''Affordability in Medicare Premiums Act,'' would eliminate that part of the Medicare premium that is attributable to the costs associated with these overpayments to HMOs. Just as somebody should not have to pay the premium of another for choosing a more costly health plan, our Nation's senior citizens or people with disabilities should not have to pay higher premiums because the Administration and Congress choose to overpay HMOs in the Medicare program.

Unfortunately, as it works now, if more Medicare beneficiaries decided this year to enroll in Medicare HMOs, then Medicare spending increases, on average, by at least 8.4 percent for each new managed care enrollee. With that increased cost, all Medicare beneficiaries, even those that neither have access to nor choose not to enroll in an HMO must pay higher premiums.

Second, the bill recognizes that HMOs are also overpaid by Medicare even further due to the Administration's decision to not appropriately ''risk adjust'' payments to health plans. As MedPAC explained in its March 2004 Report to the Congress, ''From the time plans were first paid based on capitation, the program has adjusted the capitation rates to reflect expected health care spending differences among plans based on the characteristics of their enrollees.'' In 1997, Congress required the Secretary to improve the risk adjustment system. However, in implementation of the new system, which is phased in to cushion the impact on health plans, the Centers for Medicare and Medicaid Services, or CMS, went further by estimating the impact of the new system on aggregate plan payments and has restored the difference.

MedPAC has argued against this and points out that without accurate adjustments it results in even further inequity between traditional Medicaid and private health plans. As MedPAC says, ''If plans in general attract healthier-than-average beneficiaries, the Medicare program pays more than these same beneficiaries would cost in the [fee-for-service] program.''

Dr. Biles estimates that the CMS policy will add another $1.4 billion, or 4.0 percent, to health plan overpayments. The CMS Office of the Actuary estimates that if this policy continues over the next 10 years that it will cost the Medicare program an additional $54 billion in overpayments. HMOs should not reap a significant financial windfall by avoiding serving Medicare beneficiaries who have greater health care needs than average. Moreover, once again, those that do not have access to or choose not to enroll in a Medicare HMO should not be required to pay higher premiums for these overpayments.

Therefore, the legislation requires CMS to risk adjust health plan payments and dictates that these Part B savings be redirected into reducing the Medicare Part B premiums for all Medicare beneficiaries. Furthermore, Part A savings would be applied to reduce the federal deficit and extend the solvency of the Medicare Trust Fund.

And finally, our bill repeals the $10 billion that was established in the Medicare drug bill to allow the Secretary to pay health plans for what is called a ''health plan stabilization fund.'' This fund truly serves no other purpose than to further increase overpayments and subsidies to health plans. Savings in Medicare Part B from the repeal of the provision are also redirected into reducing Medicare premiums for all Medicare beneficiaries. Once again, Part A savings would be applied to reduce the federal deficit and further extend the solvency of the Medicare Trust Fund.

If nothing is done in the next two months, this premium increase will result in a cumulative increase in premiums of 56.4 percent between 2001 and 2005. That is unacceptable to our nation's senior citizens and disabled citizens who often live on fixed incomes. Rather than hiding this fact, as the Administration has sought to do, we urge them to do something about it by supporting this critical and urgent legislation.

The ''Affordability in Medicare Premiums Act'' is all about priorities. For

the 89 percent of Medicare beneficiaries that are not enrolled in an HMO, they should not have to pay added premiums as a result of an estimated $114 billion in overpayments to HMOs over the next 10 years. We have chosen to help senior citizens and people with disabilities living on fixed incomes over HMOs. It is a matter of simple fairness.

Dr. Biles estimates that the average premium would decline for Medicare beneficiaries by at least $5 per month if our legislation is passed.

I would also underscore that by requiring risk adjustment and repealing the $10 billion PPO fund, about half of those savings would be Medicare Trust Fund or Part A dollars. As a result, the legislation has the effect of both extending the solvency of the Medicare Trust Fund and also saving taxpayers over $30 billion in coming years.

And finally, the Medicaid program would also save hundreds of millions of dollars over the next ten years due to the fact that Medicaid pays the cost-sharing and premiums for low-income senior citizens and the disabled who are both enrolled in Medicare and Medicaid. The Federal Funds Information for States, or FFIS, has estimated that the Medicare Part B premium increase will cost the Medicaid program over $800 million in 2005. By reducing the Medicare premium, the Medicaid program—and thereby, both federal and state governments and taxpayers—will see spending decline in this area.

I would like to thank Senators MIKULSKI, GRAHAM of Florida, CORZINE, HARKIN, DURBIN, FEINGOLD, ROCKEFELLER, and KOHL for working with me on introducing this important legislation on behalf of our nation's seniors and disabled enrolled in Medicare.

I ask for unanimous consent that the Fact Sheet supporting the legislation and the text of the bill be printed in the RECORD.

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

AFFORDABILITY IN MEDICARE PREMIUMS ACT

Senators Jeff Bingaman, Barbara Mikulski, Bob Graham, Jon Corzine, Tom Harkin, Russ Feingold, Jay Rockefeller, and Herb Kohl are introducing legislation entitled the ''Affordability in Medicare Premiums Act.'' The bill would substantially reduce the growth in the Medicare Part B premium scheduled to take place in 2005 and instill greater fairness in the Medicare Part B premium in the future. It would do so in a fiscally responsible manner while also managing to extend the solvency of the Medicare Part A Trust Fund and reduce the Federal deficit.

BACKGROUND

On September 3, 2004, the Bush Administration announced that the Medicare Part B premium will rise from $66.60 per month in 2004 to $78.20 per month in 2005—a 17.4 percent increase. This $11.60 monthly or $138 a year increase for Medicare enrollees represents the single largest in the history of the Medicare program.

One of the major factors contributing to the dramatic increase was the enactment of provider and managed care plan payment increases in the Medicare Modernization Act. In the case of payments to managed care plans, the Centers for Medicare and Medicaid Services (CMS) Office of the Actuary estimates that payments will increase by 14.4 percent between 2004 and 2005. This will occur on a base payment to HMOs that was already estimated by the Commonwealth Fund to exceed fee-for-service costs by 8.4 percent or $552 per Medicare Advantage plan enrollee in 2004.

Since the increase in payments to Medicare Advantage health plans attributable to Part B spending is paid for by increased premiums for all Medicare beneficiaries, the result is that senior citizens and people with disabilities that are not enrolled in Medicare HMOs have been and will increasingly be cross-subsidizing overpayments to these Medicare HMOs.

REDUCES PART B PREMIUMS FOR THE 89 PERCENT OF THOSE NOT ENROLLED IN MEDICARE HMOS

The legislation would eliminate this cross-subsidization by making sure that the 89 percent of Medicare enrollees that currently choose not to enroll or do not have access to a Medicare HMO are no longer paying for the overpayments to these plans. The legislation would achieve this by requiring CMS to estimate the Part B premium for Medicare beneficiaries at what the cost would be if HMOs were paid at 100% of the cost of traditional Medicare fee-for-service.

In short, rather than subsidizing HMOs, the legislation allows seniors and people with disabilities—many on fixed incomes and with large out-of-pocket costs (an estimated $3,455 for senior citizens enrolled in Medicare)—to have their Part B premium reduced to use these dollars on their own health care rather than for overpayments to HMOs that they have chosen not to enroll in or to which they do not even have access.

For example, according to the Congressional Research Service (CRS), as of March 2003, the following states had either no enrollment or less than 5 percent of their Medicare beneficiaries enrolled in managed care plans: Montana, Wyoming, Utah, North Dakota, South Dakota, Nebraska, Iowa, Wisconsin, Michigan, Illinois, Indiana, Kentucky, Arkansas, Mississippi, Georgia, North Carolina, Virginia, West Virginia, Maryland, Delaware, New Jersey, New Hampshire, Vermont, Maine, and Alaska.

As the Commonwealth Fund has found, ''Over 40 percent of Medicare beneficiaries, particularly those living in rural areas, do not have access to a Medicare Advantage plan. Nor do all Medicare beneficiaries in urban areas have their physicians in Medicare Advantage plan networks.'' As a result, virtually all of the Medicare beneficiaries in these states, often with no access to a Medicare HMO at all, are paying for the overpayment to managed care plans operating in other areas in the country.

Furthermore, even for states with larger enrollment in Medicare HMOs, such as California, Massachusetts, New York, New Mexico, or Rhode Island, it makes little sense for those not enrolled in managed care plans to pay the rapidly growing Part B premium due to HMO overpayments that were already occurring in Medicare but are now scheduled to increase much more rapidly as a result of the Medicare Modernization Act.

IMPROVES HEALTH PLAN PAYMENTS AND FURTHER REDUCING PREMIUMS FOR ALL MEDICARE ENROLLEES

The bill further recognizes that HMOs are overpaid by Medicare in two ways—first, by the direct overpayment in legislation, and second, by the failure of the Bush Administration to appropriately ''risk adjust'' payments to health plans based on the fact that health plans attract, on average, healthier people than those in traditional Medicare. Congress passed legislation in 1997 as part of the Balanced Budget Act that required payments to plans to be adjusted or ''risk adjusted'' based on the health of their enrollees. However, CMS has interpreted the law to allow it to risk adjust payments in a ''budget neutral'' manner by redistributing plan overpayments among all plans.

The CMS Office of the Actuary estimates that the Bush Administration's failure to adjust for the health of plan enrollees led to an overpayment of $3 billion in 2004 and would lead to another $54 billion in overpayments if payments are not risk adjusted through 2014.

Therefore, the legislation requires CMS to risk adjust health plan payments in a manner that saves the Medicare program these funds. Furthermore, those savings will be further plowed back into reducing the Medicare Part B premium for all Medicare beneficiaries, including those enrolled in Medicare Advantage plans.

And finally, it repeals the $10 billion that was established in the Medicare Modernization Act that allows the Secretary to pay PPOs for what is called a ''health plan stabilization fund.'' This fund serves no purpose other than to increase overpayments to PPOs over and above what Medicare Advantage plans already receive. Savings from the repeal of this provision are also plowed back into reducing the Medicare Part B premium for all Medicare beneficiaries, including those enrolled in Medicare Advantage plans.

SAVES THE MEDICAID PROGRAM FUNDING AS WELL

The Federal Funds Information for States has estimated that the Medicare Part B premium increase will cost states by over $800 million in CY 2005. This legislation would significantly reduce that impact.

ENSURES LEGISLATION IS FISCALLY RESPONSIBLE MANNER, EXTENDS THE SOLVENCY OF THE MEDICARE PART A TRUST FUND, AND REDUCES THE FEDERAL BUDGET DEFICIT

The savings from these two changes in payments to HMOs are used to reduce the Medicare Part B premiums for seniors citizens and people with disabilities in a fiscally responsible manner while also extending the solvency of the Medicare Part A Trust Fund, reducing spending in the Medicaid program, and reducing the federal deficit.

S. 2906

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 ''Affordability in Medicare Premiums Act of 2004''.

SEC. 2. REDUCTION OF MEDICARE PART B PREMIUM FOR INDIVIDUALS NOT ENROLLED IN A MEDICARE ADVANTAGE PLAN.

Section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)) is amended—

(1) in paragraph (3), in the first sentence, by striking ''The Secretary'' and inserting ''Subject to paragraph (5), the Secretary''; and

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

''(5)(A) For each year (beginning with 2005), the Secretary shall reduce the monthly premium rate determined under paragraph (3) for each month in the year for individuals who are not enrolled in a Medicare Advantage plan (including such individuals subject to an increased premium under subsection (b) or (i)) so that the aggregate amount of such reductions in the year is equal to the aggregate amount of reduced expenditures from the Federal Supplementary Medicare Insurance Trust Fund that the Secretary estimates would result in the year if the annual Medicare+Choice capitation rate for the

year was equal to the amount specified under subparagraph (D) of section 1853(c)(1), and not subparagraph (A), (B), or (C) of such section.

''(B) In order to carry out subsections (a)(1) and (b)(1) of section 1840, the Secretary shall transmit to the Commissioner of Social Security and the Railroad Retirement Board by the beginning of each year (beginning with 2005), such information determined appropriate by the Secretary, in consultation with the Commissioner of Social Security and the Railroad Retirement Board, regarding the amount of the monthly premium rate determined under paragraph (3) for individuals after the application of subparagraph (A).''.

SEC. 3. FUNDING REDUCTIONS IN THE MEDICARE PART B PREMIUM THROUGH REDUCTIONS IN PAYMENTS TO MEDICARE ADVANTAGE ORGANIZATIONS.

Section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)), as amended by section 2, is amended—

(1) in paragraph (3), in the first sentence, by striking ''paragraph (5)'' and inserting ''paragraphs (5) and (6)''; and

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

''(6) For each year (beginning with 2005), the Secretary shall reduce the monthly premium rate determined under paragraph (3) for each month in the year for each individual enrolled under this part (including such an individual subject to an increased premium under subsection (b) or (i)) so that the aggregate amount of such reductions in the year is equal to an amount equal to—

''(A) the aggregate amount of reduced expenditures from the Federal Supplementary Medicare Insurance Trust Fund in the year that the Secretary estimates will result from the provisions of, and the amendments made by, sections 4 and 5 of the Affordability in Medicare Premiums Act of 2004; minus

''(B) the aggregate amount of reductions in the monthly premium rate in the year pursuant to paragraph (5)(A).''.

SEC. 4. APPLICATION OF RISK ADJUSTMENT REFLECTING CHARACTERISTICS FOR THE ENTIRE MEDICARE POPULATION IN PAYMENTS TO MEDICARE ADVANTAGE ORGANIZATIONS.

Effective January 1, 2005, in applying risk adjustment factors to payments to organizations under section 1853 of the Social Security Act (42 U.S.C. 1395w–23), the Secretary of Health and Human Services shall ensure that payments to such organizations are adjusted based on such factors to ensure that the health status of the enrollee is reflected in such adjusted payments, including adjusting for the difference between the health status of the enrollee and individuals enrolled under the original medicare fee-for-service program under parts A and B of title XVIII of such Act. Payments to such organizations must, in aggregate, reflect such differences.

SEC. 5. ELIMINATION OF MA REGIONAL PLAN STABILIZATION FUND (SLUSH FUND).

Subsection (e) of section 1858 of the Social Security Act (42 U.S.C. 1395w–27a), as added by section 221(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173), is repealed.

Ms. MIKULSKI. Mr. President, I rise today to join my colleagues in introducing the Affordability in Medicare Premiums Act of 2004. This bill would protect seniors against the outrageous increases in their Medicare costs. It does this by preventing HMOs from taking money out of the pockets of seniors.

Health care costs are skyrocketing, and seniors are paying a greater share out of their pockets each year. Medicare premiums are on the rise. Prescription drug costs are shooting through the roof. Seniors are facing higher co-pays and deductibles for doctor visits, and hospital and skilled nursing home visits. While seniors are paying more and more, the administration has just announced the largest increase in Medicare premiums in the history of Medicare.

Just last year this administration supported a Medicare benefit that provides seniors only a hollow promise for a prescription drug benefit. This new benefit will force over 2 million seniors to lose their drug coverage, coerce seniors into HMOs, while doing nothing to stop the soaring cost of prescription drugs.

Now this administration announces a 17.4 percent increase in Part B premiums. That's an extra $11.60 out of a seniors pocket each month. Seniors are falling further and further behind, while their Medicare premiums are getting larger, and their Social Security barely keeps up with inflation. Our seniors are struggling to buy the basics like food, clothing and other simple necessities. And that's not okay.

I ran the numbers and here's what I found. Medicare Part B insurance premiums are rising faster and faster every year. In 2003, they rose 8.7 percent. This year, Medicare Part B premiums rose by 13.5 percent. Next year these premiums will rise by 17.4 percent, which is the biggest increase in Medicare history.

In contrast, Social Security cost of living adjustments (COLA's) rose by a mere 1.4 percent in 2003; and 2.1 percent in 2004; and are projected to rise only about 3 percent for 2005. So, there's less and less of a senior's Social Security check to make ends meet.

Medicare provides health insurance coverage to 41 million seniors and disabled. Roughly 570,000 Marylanders rely on Medicare. These benefits need to be stable and secure. That's what I'm fighting for.

I believe honor thy mother and father is not just a good commandment to live by, it is good public policy to govern by. This bill would eliminate the 17.4 percent increase in premiums, which saves seniors $11.60/month. This bill would also lower premiums paid by seniors below today's rate of $66.00/per month by using the savings from stopping subsidies to HMO's. My bill is fully paid for by stopping the overpayments to HMOs. I do not believe that HMO's should not get higher reimbursements to serve seniors than traditional Medicare. My bill would also eliminate the $10 billion HMO slush fund for insurance companies to participate in the new Medicare drug plan. This would save a senior at least $115 next year to a senior on a fixed income. This is a small fortune.

This bill is not an answer to skyrocketing health care costs, but it is a stopgap measure. It will give seniors a little breathing room.

I am working hard on several bills to fix the Prescription Drug Benefit that was passed last year, including legislation that protects seniors Social Security COLA's; legislation that provides a real drug benefit for seniors; and, legislation that allow the government to negotiate with drug companies to lower the cost of prescription drugs. I am fighting to end the giveaways to insurance companies, and use those savings to improve Medicare.

Congress created Medicare to provide a safety net for seniors. It is time to stop putting money in the pockets of HMOs and use that money to provide quality care for seniors. This bill is a good first step down that road, but a you can see, it is not the only step. Seniors cannot afford 17 percent increases in their Medicare premiums.

I urge my colleagues to join me in expressing support for this bill.

By Mr. DODD (for himself and Mr. KENNEDY):

S. 2907. A bill to amend the Public Health Service Act to improve the quality and efficiency of health care delivery through improvements in health care information technology, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, today I am pleased to announce the introduction of the Information Technology for Health Care Quality Act. Let me thank Senator KENNEDY for joining me in introducing this bill. By encouraging health care providers to invest in information technology (IT), this legislation has the potential to bring skyrocketing health care costs under control and improve the overall quality of care in our nation.

We are facing a health care crisis in our country. The Census Bureau recently released a report showing that 45 million Americans were without health insurance in 2003—an increase of 1.4 million over 2002. In many respects, we have the greatest health system in the world, but far too many Americans are unable to take advantage of this system.

The number of uninsured continues to rise because the cost of health care continues to soar. Year after year, health care costs increase by double-digit percentages. The cost of employer-sponsored coverage increased by 11 percent this year, after a 14 percent increase in 2003. Employers are dropping health care coverage because they can no longer afford to foot the bill.

One of the ways to provide health care coverage to every American is to reign in health care costs. And expanding the use of IT in health care is the best tool we have to control costs. Studies have shown that as much as one-third of health care spending is for redundant or inappropriate care. Estimates suggest that up to 14 percent of laboratory tests and 11 percent of medication usage are unnecessary. Finally, and perhaps most disturbingly,

we know that it takes, on average, 17 years for evidence to be incorporated into clinical practice. Along these same lines, a recent study showed that patients receive the best evidence-based treatment only about half the time.

Significant cost-savings will undoubtedly be realized simply by moving away from a paper-based system, where patient charts and test results are easily lost or misplaced, to an electronic system where data is easily stored, transferred from location to location, and retrieved at any time. With health IT, physicians will have their patients' medical information, at their fingertips. A physician will no longer have to take another set of X-Rays because the first set was misplaced, or order a test that the patient had six months ago in another hospital because she is unaware that the test ever took place. The potential for cost-savings from simply eliminating redundancies and unnecessary tests, and reducing administrative and transaction costs, is substantial.

Of course, when we consider the improved quality of care and patient safety that will result from wider adoption of health IT, the impact on cost is even greater. For example, IT can provide decision support to ensure that physicians are aware of the most up-to-date, evidence-based best practices regarding a specific disease or condition, which will reduce expensive hospitalizations. Given all of these benefits, estimates suggest that Electronic Health Records (EHRs) alone could save more than $100 billion each year. The full benefits of IT could be multiple hundreds of billions annually. Such a significant reduction in health care costs would allow us to provide coverage to millions of uninsured Americans.

The benefits of IT go beyond economics. I am sure that all of my colleagues are familiar with the Institute of Medicine (IOM) estimate that up to 98,000 Americans die each year as a result of medical errors. A RAND Corporation study from last year showed that, on average, patients receive the recommended care for certain widespread chronic conditions only half of the time. That is an astonishing figure. To put it in a slightly different way, for many of the health conditions with which physicians should be most familiar, half of all patients are essentially being treated incorrectly.

Most experts in the field of patient safety and health care quality, including the IOM, agree that improving IT is one of the crucial steps towards safer and better health care. By providing physicians with access to patients' complete medical history, as well as electronic cues to help them make the correct treatment decisions, IT has the potential to significantly impact the care that Americans receive. It is impossible to put a value on the potential savings in human lives that would undoubtedly result from a nationwide investment in health care information technology.

It might seem counterintuitive that we can realize tremendous cost savings while, at the same time improving care for patients. But in fact, improving patient care is essential to reducing costs. IT is the key to unlocking the door—it has the potential to lead to improvements in care and efficiency that will save patients' lives, reduce costs, and reduce the number of uninsured.

Unfortunately, despite the impact that IT can have on cost, efficiency, patient safety, and health care quality, most health care providers have not yet begun to invest in new technologies. The use of IT in most hospitals and doctors' offices lags far behind almost every other sphere of society. The vast majority of written work, such as patient charts and prescriptions, is still done using pen and paper. This leads to mistakes, higher costs, reduced quality of care, and in the most tragic cases, death.

There is no question in my mind that the Federal government has a significant role to play in expanding investment in health IT. The legislation that I am introducing today defines that role. First, this bill would establish Federal leadership in defining a National Health Information Infrastructure (NHII) and adopting health IT standards. While I am pleased that the administration has already appointed a National Coordinator for Health Information Technology, I believe that the authority given to the Coordinator and the resources at his disposal are not equal to the enormity of his task. That is why my legislation creates an office in the White House, the Office of Health Information Technology, to oversee all of the Federal Government's activities in the area of health IT, and to create and implement a national strategy to expand the adoption of IT in health care.

This office would also be responsible for leading a collaborative effort between the public and private sectors to develop technical standards for health IT. These standards will ensure that health care information can be shared between providers, so that a family moving from Connecticut to California will not have to leave their medical history behind. At the same time, this bill would ensure that the adopted standards protect the privacy of patient records. While the creation of portable electronic health records is an important goal, privacy and confidentiality must not be sacrificed.

This legislation would also provide financial assistance to individual health care providers to stimulate investment in IT, and to communities to help them set up interoperable IT infrastructures at the local level, often referred to as Local Health Information Infrastructures—LHIIs. IT requires a huge capital investment. Many providers, especially small doctors offices, and safety-net and rural hospitals and health centers, simply cannot afford to make the type of investment that is needed.

Finally, this legislation would provide for the development of a standard set of health care quality measures. The creation of these measures is critical to better understanding how our health care system is performing, and where we need to focus our efforts to improve the quality of care. IT has the potential to drastically improve our ability to capture these quality measures. All recipients of Federal funding under this bill would be required to regularly report on these measures, as well as the impact that IT is having on health care quality, efficiency, and cost savings.

The establishment of standard quality measures is also the first step in moving our nation towards a system where payment for health care is more appropriately aligned—a system in which health care providers are paid not simply for the volume of patients that they treat, but for the quality of care that they deliver. To this end, my legislation would require the Secretary of Health and Human Services to report to Congress on possible changes to Federal reimbursement and payment structures that would encourage the adoption of IT to improve health care quality and patient safety.

It is time for our country to make a concerted effort to bring the health care sector into the 21st century. We must invest in health IT systems, and we must begin to do so immediately. The number of uninsured, the skyrocketing cost of care, and the number of medical errors should all serve as a wake-up call. We have a tool at our disposal to address all of these problems, and there is no more time to waste. I urge my colleagues to support this legislation.

By Mr. SPECTER (for himself, Mrs. FEINSTEIN, Mr. ENSIGN, Ms. CANTWELL, Mr. DEWINE, and Mr. LEAHY):

S. 2908. A bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition to introduce the ''Animal Fighting Protection Enforcement Act of 2004'' with my colleagues Senators FEINSTEIN, ENSIGN, CANTWELL, DEWINE and LEAHY.

The bipartisan bill we are introducing today is very similar to S. 736 with the same title, introduced by Senator ENSIGN and currently cosponsored by fifty-one Senators including me. This new bill is identical to another bill, H.R. 4264, pending in the House of Representatives.

Specifically, this bill provides felony penalties by authorizing jail time of up to two years for violations of Federal animal fighting law, rather than the misdemeanor penalty (up to one year) under current law. Most States have felony-level penalties for animal fighting violations, but federal prosecutors are reluctant to pursue animal fighting

cases without felony-level penalties. Both the Senate and House included this felony provision in their farm bills in 2002, with identical wording, but the provision was dropped in conference. The Senate also passed this as an amendment to the ''Healthy Forests'' bill, but it was again removed in conference.

The bill also outlaws cockfighting implements by prohibiting interstate and foreign commerce of the razor-sharp knives and ice pick-like gaffs are strapped onto birds' legs during cockfighting combat. These devices are specially designed for cockfighting and have no other known purpose.

H.R. 4264 tracks language in Section 26 of the Animal Welfare Act (7 U.S.C. 2156) that prohibits interstate and foreign commerce of animals for fighting purposes. This covers dog fighting, cockfighting, and other fights between animals ''conducted for purposes of sport, wagering, or entertainment,'' with an explicit exemption for an activity ''the primary purpose of which involves the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon, or fox hunting.''

Under current law, it already is illegal to: 1. Sponsor or exhibit an animal in an animal fighting venture if the person knows that any animal was bought, sold, delivered, transported, or received in interstate or foreign commerce for participation in the fighting venture. 2. Knowingly sell, buy, transport, deliver, or receive an animal in interstate or foreign commerce for purposes of participation in a fighting venture, regardless of the law in the destination State, dog fighting is illegal in all 50 States; cockfighting is illegal in 48 States. 3. Knowingly use the Postal Service or any interstate instrumentality to promote an animal fighting venture in the U.S., e.g., through advertisement, unless the venture involves birds and the fight is to take place in a State that allows cockfighting. As explained on USDA's website explaining the Federal animal fighting law, ''In no event may the Postal Service or other interstate instrumentality be used to transport an animal for purposes of having the animal participate in a fighting venture, even if such fighting is allowed in the destination state''.

The efforts to pass further Federal animal fighting prohibitions have been endorsed by more than 150 local police and sheriffs departments across the country, as well as The Humane Society of the United States, the National Chicken Council, representing 95 percent of U.S. chicken producers/processors, the American Veterinary Medical Association, and many other organizations. I urge my colleagues in the Senate to cosponsor this bill and support its quick passage.

By Mr. SPECTER:

S. 2909. A bill to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area; to the Committee on Energy and Natural Resources.

Mr. SPECTER. Mr. President, I seek recognition to introduce a bill to authorize the Secretary of the Interior to modify existing right-of-way agreements to allow an increase in the diameter of an existing natural gas pipeline in the Delaware Water Gap National Recreation Area in Pike County, Pennsylvania.

In 1947, Columbia Gas Transmission Corporation installed a 14-inch diameter pipeline, known as Line 1278, that included construction in the then rural areas of Pike, Northampton and Monroe counties. This system has become an important part of the energy delivery system to key eastern markets.

The United States Department of Transportation (DOT) directed Columbia in 2002 and 2003 to take actions going forward with Line 1278, including additional testing, additional cathodic, corrosion, protection and replacement of portions of the pipeline. DOT ordered that the replacement must be completed by 2007. To comply with the DOT instructions, Columbia in December 2003 filed an application with the Federal Energy Regulatory Commission to replace about 43 miles of this pipeline, including 3.5 miles of the line that now lie within the Delaware Water Gap National Recreation Area.

At issue are two right-of-way agreements affecting property now within the Delaware Water Gap National Recreation Area that do not allow Columbia to increase the diameter of the pipeline. The Recreation Area was formed in 1965 through the acquisition of many tracts of private property. Columbia's Line 1278 runs through 14 of these tracts under the terms of right-of-way agreements obtained from landowners prior to the Recreation Area's creation. Agreements affecting 12 of the 14 tracts include language allowing Columbia to increase the diameter of the pipeline. However, two of the agreements, representing about 890 feet of the pipeline, do not include such authorization.

Under current law, the Secretary of the Interior lacks legislative authorization to enter into an agreement to grant a pipeline easement that will allow an increase in the diameter of Line 1278. To complete the planned upgrade to improve energy reliability in the region, enabling legislation is required.

This bill would authorize the Secretary of the Interior to enter into an agreement with Columbia to grant a pipeline easement to allow an increase in the diameter of Line 1278 from 14 inches to 20 inches in diameter. Timely enactment will allow the replacement to be performed efficiently in conjunction with the overall replacement project, and the uniform size will facilitate the use of ''smart pigging'' technology to utilize inspection vehicles inside pipelines to help assure long-term safety and reliability of this important energy infrastructure.

I urge my colleagues to support this legislation for this important project.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 448—DESIGNATING THE FIRST DAY OF APRIL 2005 AS ''NATIONAL ASBESTOS AWARENESS DAY''

Mr. REID submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 448

Whereas deadly asbestos fibers are invisible and cannot be smelled or tasted;

Whereas when airborne fibers are inhaled or swallowed, the damage is permanent and irreversible;

Whereas these fibers can cause mesothelioma, asbestosis, lung cancer, and pleural diseases;

Whereas asbestos-related diseases can take 10 to 50 years to present themselves;

Whereas the expected survival rate of those diagnosed with mesothelioma is between 6 and 24 months;

Whereas little is known about late stage treatment and there is no cure for asbestos-related diseases;

Whereas early detection of asbestos-related diseases would give patients increased treatment options and often improve their prognosis;

Whereas asbestos is a toxic and dangerous substance and must be disposed of properly;

Whereas nearly half of the more than 1,000 screened firefighters, police officers, rescue workers, and volunteers who responded to the World Trade Center attacks on September 11, 2001, have new and persistent respiratory problems;

Whereas the industry groups with the highest incidence rates of asbestos-related diseases, based on 2000 to 2002 figures, were shipyard workers, vehicle body builders (including rail vehicles), pipefitters, carpenters and electricians, construction (including insulation work and stripping), extraction, energy and water supply, and manufacturing;

Whereas the United States imports more than 30,000,000 pounds of asbestos used in products throughout the Nation;

Whereas asbestos-related diseases kill 10,000 people in the United States each year, and the numbers are increasing;

Whereas asbestos exposure is responsible for 1 in every 125 deaths of men over the age of 50;

Whereas safety and prevention will reduce asbestos exposure and asbestos-related diseases;

Whereas asbestos has been the largest single cause of occupational cancer;

Whereas asbestos is still a hazard for 1,300,000 workers in the United States;

Whereas asbestos-related deaths have greatly increased in the last 20 years and are expected to continue to increase;

Whereas 30 percent of all asbestos-related disease victims were exposed to asbestos on naval ships and in shipyards;

Whereas asbestos was used in the construction of virtually all office buildings, public schools, and homes built before 1975; and

Whereas the establishment of a ''National Asbestos Awareness Day'' would raise public awareness about the prevalence of asbestos-related diseases and the dangers of asbestos exposure: Now, therefore, be it

Resolved, That the Senate designates the first day of April 2005 as ''National Asbestos Awareness Day''.

Mr. REID. Mr. President, Alan Reinstein was diagnosed with mesothelioma on June 16, 2003 and underwent radical surgery to remove his affected lung, diaphragm, and other parts of his body. Today, Alan continues his courageous battle with this terrible illness.

I received a phone call last week from by brother Don, indicating that a long-time family friend, Harold Hansen, had died from mesothelioma.

I am submitting a resolution today to designate the first day of April of next year as National Asbestos Awareness Day.

Harold Hansen was a family friend, such a wonderful man. In fact, my brother called me a short time ago and said: Harold is sick. He has mesothelioma.

I said: Did he ever work around asbestos. And he said not that he remembers.

I knew a lawyer who might be able to help him and referred him to the lawyer. Now Harold is dead.

This is a terribly difficult problem in America. I talked about Alan; his wife Linda could not just sit back and watch her husband suffer. Knowing others were also suffering, she helped create the Asbestos Disease Awareness Organization to unite asbestos victims. One goal of the organization is to educate the public and the medical community about asbestos-caused diseases. The occurrence of asbestos-related diseases, including mesothelioma, asbestosis, and lung cancer is growing.

Over the next decade, it is estimated that 100,000 victims in the United States alone will die of asbestos-related disease. About 30 a day will die from this condition.

I received many letters from Nevadans with asbestos-related diseases in their families.

Eleanor Shook from Searchlight, NV, where I was born and reared, lost her husband Chuck to this dread condition 2 years ago. They found that Chuck was sick, and 2 months later he died—no cure, no treatment, no reprieve. He had been repeatedly exposed to asbestos during all the years he was working to raise his family.

I also got a letter from Jack Holmes, a former teacher from Las Vegas, who wrote:

I am dying. I have malignant mesothelioma . . . I can expect extreme pain and suffering before I die.

I also heard from Robert Wright of Henderson, who was exposed to asbestos in the Navy and now suffers from asbestosis.

These are just a few of the hundreds of Nevadans who are suffering today from asbestos-related diseases. Every one of these stories is a tragedy because they all could have been prevented. Asbestos-related diseases are uncurable, and they are deadly. They can be prevented with greater awareness and education.

Most Americans think asbestos was banned a long time ago. But companies use asbestos every day in their water pipes, as insulation, and in building materials and other substances. Asbestos kills, and kills invisibly. Asbestos cannot be smelled, tasted, or seen, and moves through the air in tiny particles and embeds itself in the lining of the lungs once it is inhaled. It stays there for up to 50 years, damaging tissue and eventually causing disease. Inhalation of asbestos is permanent and irreversible. Simply walking by a recently demolished building that contains asbestos can be enough to breathe in a deadly amount.

I was in New York and a New York police officer was with me. He was part of an undercover unit that had New York City policemen dressed in construction clothes. They were running a construction business. That was part of what they were undercover doing. One of the reasons they did it is because there are people in this country so evil, so malignant that they are willing to take asbestos that these people said they had—it really wasn't asbestos—and they would take it and dispose of it. They would dispose of it in school grounds, and they had no concern where they disposed of what they thought was asbestos. Of course, they were arrested. But asbestos is a terrible problem. It is such a difficult problem in New York City alone where they remove asbestos. They are setting up these undercover operations to catch some of the people who are trying to make money on the disposal of asbestos.

Exposure to asbestos has had numerous consequences for victims and their families. Better awareness and education can help to eliminate future exposure. Early detection can give patients increased treatment options and often improves their prognosis. For these reasons, I am introducing a resolution to designate the first day of April as Asbestos Awareness Day. Asbestos awareness will lead to prevention, early diagnosis, new treatments, and a cure.

Just as the victims of families of asbestos-related disease joined together in founding the Asbestos Disease Awareness Organization, the Senate must unite in and pay tribute to victims by observing April 1 as Asbestos Awareness Day. I hope all Senators will join me in this effort.

SENATE RESOLUTION 449—ENCOURAGING THE PROTECTION OF THE RIGHTS OF REFUGEES

Mr. KENNEDY (for himself, Mr. BROWNBACK, and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 449

Whereas the Convention Relating to the Status of Refugees dated July 28, 1951 (189 UST 150) (hereinafter referred to as the ''Convention'') and the Protocol Relating to the Status of Refugees done at New York January 31, 1967 (19 UST 6223) (hereinafter referred to as the ''Protocol'') provide that individuals who flee a country to avoid persecution deserve international protection;

Whereas such protection includes freedom from forcible return and the basic rights necessary for a refugee to live a free, dignified, self-reliant life, even while in exile;

Whereas such rights, as recognized in the Convention, include the right to earn a livelihood, including the right to engage in wage-employment or self-employment, practice a profession, own property, freedom of movement and residence, and receive travel documents;

Whereas such rights are applicable to a refugee independent of whether a solution is available that would permit the refugee to return to the country that the refugee fled;

Whereas such rights are part of the core protection mandate of the United Nations High Commissioner for Refugees;

Whereas more than 50 percent of the refugees in the world are effectively ''warehoused'', which means such refugees have been confined to a camp or segregated settlement or otherwise deprived of their basic rights in a situation that has existed for at least 10 years;

Whereas donor countries, including the United States, have typically offered less developed countries hosting refugees assistance if they keep refugees warehoused in camps or segregated settlements but have not provided adequate assistance to host countries that permit refugees to live and work among the local population; and

Whereas warehousing refugees not only violates the rights of the refugees but also debilitates their humanity, often reducing the refugees to enforced idleness, dependency, disempowerment, and despair: Now, therefore, be it

Resolved, That the United States Senate—

(1) denounces the practice of warehousing refugees, which is the confinement of refugees to a camp or segregated settlement or other deprivation of the refugees' basic rights in a situation that has lasted 10 years or more, as a denial of basic human rights and a squandering of human potential;

(2) urges the Secretary of State to actively pursue models of refugee assistance that permit refugees to enjoy all the rights recognized in the Convention Relating to the Status of Refugees dated July 28, 1951 (189 UST 150) (hereinafter referred to as the ''Convention'') and the Protocol Relating to the Status of Refugees done at New York January 31, 1967 (19 UST 6223) (hereinafter referred to as the ''Protocol'');

(3) urges the Secretary of State to encourage other donor nations and other members of the Executive Committee of the United Nations High Commissioner for Refugees' Programme to shift the incentive structure of refugee assistance and to build mechanisms into relief and development assistance to encourage the greater enjoyment by refugees of their rights under the Convention;

(4) encourages the international community, including donor countries, host countries, and members of the Executive Committee of the United Nations High Commissioner for Refugees' Programme, to denounce resolutely the practice of warehousing refugees in favor of allowing refugees to exercise their rights under the Convention;

(5) calls upon the United Nations High Commissioner for Refugees to monitor refugee situations more effectively for the realization of all the rights of refugees under the Convention, including those related to freedom of movement and the right to earn a livelihood;

(6) encourages those countries that have not yet ratified the Convention or the Protocol to do so;

(7) encourages those countries that have ratified the Convention or the Protocol but have done so with reservations on key articles pertaining to the right to work and freedom of movement to remove such reservations; and

(8) encourages all countries to enact legislation or promulgate policies to provide for the legal enjoyment of the basic rights of refugees as outlined in the Convention.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues, Senator BROWNBACK and Senator LEAHY, in submitting a resolution to call attention to the plight of the large number of refugees throughout the world confined to refugee camps or segregated settlements for extended periods of time. In the vast majority of cases, these refugees are being ''warehoused,'' often for years, and in violation of their basic rights under the Refugee Convention adopted over half a century ago.

We know of 300,000 Angolans in Zambia, Congo-Kinshasa, and Namibia, two million Afghans in Iran and Pakistan, 100,000 Bhutanese in Nepal, and 500,000 refugees from Sudan who have lived in refugee camps in various countries for 20 years. Shamefully, of the world's nearly 12 million more than 7 million have been restricted to refugee camps or segregated settlements for a decade or even longer.

These tragic statistics aren't front page news. Refugees seldom dominate the headlines. But the reality is that the troubles of our time are exacting a heavy toll on people fleeing from conflicts and oppression. Throughout the world, men, woman and children are on the move, silent witnesses to the cruelties that plague our age.

Refugee camps are often created quickly, to address a crisis. But the solution sometimes creates a greater problem when temporary refugee camps turn into long-term places of detention and confinement, often under extreme conditions with little attention paid to the growing number of refugees that find themselves in endless and harmful situations.

Under the Refugee Convention of 1951, refugees have rights, including the right to earn a livelihood, to engage in wage-employment or self-employment, to practice a profession, to own property, and to have freedom of movement and residence. ''Warehoused'' refugees can do none of these things. Unable to work, travel, own property or obtain an education, they live unlived lives, without the basic freedoms they are entitled to have under the Convention of 1951.

Without the chance to obtain an education or earn a living, refugees becomes easy recruitment targets for terrorist groups. We can be vigilant against terrorism, and we can do so without abandoning the basic humanity of refugees and squandering their lives in squalid warehouses.

The resolution we are offering denounces the practice of warehousing refugees and urges all nations to grant refugees their basic rights under the Refugee Convention.

America has a proud history as a haven for refugees, especially since the end of World War II. Assistance to refugees has been a conspicuous aspect of our leadership in the world. As a leader in this area, we need to say to the world that the widespread practice of warehousing refugees violates international law. As members of the world community, we have a responsibility to ensure that refugees are able to exercise the basic rights granted to them under the Refugee Convention.

Over 100 international organizations support the end of warehousing, including more than twenty U.S.-based agencies. Nobel laureates have condemned this practice, including Archbishop Desmond Tutu of South Africa, and worldwide support continues to grow.

Last year, the United States was the largest global contributor to agencies assisting refugees. But, there is far more to do. We must strengthen our own commitment, and work with other countries to meet the worldwide challenge. To do too little will only add to the injustice endured by millions of refugees around the world, jeopardize our own national security, and ignore incalculable human potential that is being lost.

I urge our colleagues to join us in supporting this resolution, and help us to give new priority to ending this inhumane practice that has been festering too long in so many parts of the world.

I ask unanimous consent that editorials from the New York Times and Washington Times be printed in the RECORD.

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

[From The New York Times, Sept. 28, 2004]

WAREHOUSES FOR REFUGEES

The starvation and disease stalking the refugee camps near the Darfur region of Sudan are a reminder that for many refugees, conditions where they land are not much better than the conditions they flee. The world has 12 million refugees, and 7.4 million of them have been living in camps or settlements for more than 10 years. Many are prohibited from traveling or working, confined to crowded, squalid tents, at the mercy of marauding gangs, and utterly dependent on handouts of food insufficient to ward off hunger and on health care that does not prevent cholera and dysentery. Some people have lived in such camps for generations.

Half a million refugees from Myanmar, for example, have lived in camps in neighboring countries for 20 years, with no right to work or travel. The same is true of about 140,000 Somalis, who have lived since 1991 in closed camps in northern Kenya.

The camps are often established quickly to deal with refugee emergencies and never get dismantled. The original goal—allowing refugees to return home when conditions improve—has had the perverse effect of preventing them from establishing new lives in a new country. Countries like Pakistan, Zambia and Chad, which end up accepting the vast majority of refugees from troubled countries on their borders, would rather quarantine them than integrate them into their societies.

It is time to rethink warehousing, and refugee groups and the United Nations high commissioner for refugees have recently begun to explore how to help refugees become more self-reliant. Refugees who learn skills or earn money can be an asset to their war-torn homelands when they return. Moreover, there are ways to open up refugee camps without angering host populations. Zambia, for example, has given Angolan refugees land to farm. The food they grow has turned sleepy villages into trading centers, fueling local commerce.

Wealthy countries need to absorb more people for permanent resettlement. Europe, shamefully, accepts only a handful. The United States has become far less welcoming over the last 10 years, and particularly since the terrorist acts of Sept. 11, 2001. In 1992, the United States accepted 132,531 refugees; last year it was 28,422, although this year that number will almost double.

The security concerns about accepting refugees from the camps are unfounded. No terrorist would want to spend years in squalid camps and then undergo a long and uncertain vetting process simply to infiltrate the United States.

Indeed, the security threat comes from the camps' concentration of idle, frustrated, resentful young men. Warehousing itself can breed terrorism; Afghanistan's Taliban movement was born in the refugee camps of Pakistan.

Initially, reducing warehousing will require commitment from wealthy countries with the wherewithal to provide land, training and microcredit. That will cost more than doling out a weekly ration of rice and cooking oil. But it could reduce costs later, and it is a way to create a more promising future for millions.

___

[From the Washington Times, Sept. 10, 2004]

UNWAREHOUSING REFUGEES

(By Arthur E. Dewey)

Long-staying refugees in rural camps or urban ghettos are not commodities in a sad state of storage, but vibrant human beings carving out lives for themselves in exile.

That said, where they lack the right to work legally or integrate into the community, they can languish in dependency and lose hope for the future. Refugee ''warehousing'' is an issue that demands attention—and is getting it.

The U.S. Committee for Refugees has made this issue a centerpiece of its current advocacy campaign. Meanwhile, the State Department, the Office of the U.N. High Commissioner for Refugees, UNHCR, and other partner agencies are taking dramatic steps to address the warehousing problem.

The key step is facilitating voluntary repatriation. Tens of thousands of long-staying refugees have returned to Sierra Leone, Angola and Liberia from neighboring countries. More than 80,000 Iraqis have gone home since the fall of Saddam. But the biggest success story is Afghanistan, where more than 3 million have returned from long stays in Pakistan and Iran.

This continuing repatriation represents one of the largest refugee solutions in modern times, and the number of refugees caught in these dead-end situations has decreased remarkably.

While ''de-warehousing'' refugees—through repatriation, local integration, or resettlement—is an important first step, it is not enough. Sustaining repatriation requires commitment from the international donor community over the long haul. Returnees need long-term transitional help and employment opportunities to restore their dignity and self reliance.

To that end, the U.S. started an employment program called the Afghan Conservation Corps, ACC. Already, 750,000 seedlings

have been planted on the dusty hillsides around Kabul by thousands of returning refugees, internally displaced persons, demilitarized militias, and Afghan women.

Ultimately, hundreds of thousands will join them in working on similar projects. The ACC is a model for how to make dewarehousing irreversible.

There are still critics who charge we are not doing enough to bring to the United States needy refugees who can't be repatriated. I say, ''Watch what we are doing.'' Watch, for example, the rapid response to an unexpected opening in Thailand to interview 15,000 Lao Hmong stranded for more than a decade in Wat Tham Krabok. By year's end, most will be resettled in the U.S. Watch also our admitting Meshketian Turks from Russia who had been rootless for decades.

Resettlement is costly and labor-intensive, but we have spared no expense or effort to resettle refugees in the United States, when that is the most appropriate solution.

We know there remain vulnerable people—especially women and children—who have waited for years or even decades for rescue. This administration is committed to overcoming the obstacles in the way of such a rescue.

We urge other countries to be more generous in giving aid, admitting refugees and facilitating local integration where appropriate. As Secretary of State Colin Powell said during World Refugee Day commemorations in June: ''We join other nations in easing the plight of all those who will close their eyes tonight in a strange land to dream of the home they were forced to flee. It's up to all of us to defend the non-negotiable demands of human dignity. It's up to all of us to help the world's refugees feel at home again.''

It takes a home, not a warehouse, to make these dreams come true.

SENATE RESOLUTION 450—TO AUTHORIZE TESTIMONY AND REPRESENTATION IN UNITED STATES V. DANIEL BAYLY, ET. AL

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 450

Whereas, by Senate Resolution 317, 107th Congress, the Senate authorized the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs to produce records from its investigation into the collapse of Enron Corporation to law enforcement and regulatory officials and agencies;

Whereas, by Senate Resolution 394, 108th Congress, the Senate authorized testimony and legal representation of a former employee of, and a detailee to, the Permanent Subcommittee on Investigation in the case of United States V. Daniel Bayly, et al., Cr. No. H–03–363, pending in the United States District Court for the Southern District of Texas;

Whereas, in the case of United States v. Daniel Bayly, et al., subpoenas for testimony have been issued to Claire Barnard, a former employee of, and Edna Falk Curtin, a former detailee to, the Permanent Subcommittee on Investigations;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Claire Barnard and Edna Falk Curtin are authorized to testify in the case of United States v. Daniel Bayly, et al., except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Claire Barnard and Edna Falk Curtin in connection with the testimony authorized in section one of this resolution.

SENATE CONCURRENT RESOLUTION 141—RECOGNIZING THE ESSENTIAL ROLE OF NUCLEAR POWER IN THE NATIONAL ENERGY POLICY OF THE UNITED STATES AND SUPPORTING THE INCREASED USE OF NUCLEAR POWER AND THE CONSTRUCTION AND DEVELOPMENT OF NEW AND IMPROVED NUCLEAR POWER GENERATING PLANTS

Mr. DOMENICI (for himself, Mr. CRAIG, Mr. CRAPO, Ms. LANDRIEU, Mr. GRAHAM of South Carolina, Mr. FITZGERALD, Mr. SESSIONS, Mr. VOINOVICH, Mr. PRYOR, Mrs. LINCOLN, Mr. MILLER, and Mr. ALEXANDER) submitted the following concurrent resolution; which was referred to the Committee on Energy and Natural Resources:

S. CON. RES. 141

Whereas the Energy Information Administration in the Department of Energy estimates that by 2025 the United States will need more than 300,000 megawatts of new electricity-generating capacity to maintain its current levels of growth and standards of living;

Whereas Vision 2020, the nuclear energy industry's plan to increase the use of nuclear energy through the year 2020 to meet the projected growth in the demand for electricity, calls for maintaining the Nation's nonemitting electricity generation at 30 percent, which would require 50,000 megawatts of new nuclear power to be generated;

Whereas meeting the increasing demand for continuous and reliable, or baseload, electricity is essential for supporting the economic growth which is necessary to maintain the Nation's standard of living;

Whereas even the aggressive implementation of energy-efficiency initiatives cannot replace the need for new electricity-generating capacity;

Whereas nuclear power generated by the 103 commercial nuclear power plants operating in the United States provides the electricity for 20 percent of the United States;

Whereas consumers of nuclear power enjoy a higher level of price stability compared to consumers of other energy sources;

Whereas nuclear power plants do not produce harmful emissions or greenhouse gases and can provide States, and the Nation as a whole, with flexibility in meeting goals for clean air and economic growth at lower costs than other sources of power;

Whereas increasing nuclear power generation will require designing and building new plants as well as operating the new facilities, which together will create thousands of new jobs;

Whereas the nuclear power industry, the Department of Energy, and the Nuclear Regulatory Commission are working together to demonstrate the effectiveness of a new licensing process for nuclear power plants, which allows full public participation in decisions about the designs and sites of new nuclear power plants without causing delays in construction or commercial operation;

Whereas nuclear energy, science, and technology applications are vital in the diagnosis and treatment of disease, food and mail safety, space exploration, structural inspection, and other important applications;

Whereas for decades, commercial nuclear power generating facilities have had an unmatched safety record;

Whereas nuclear power plants in the United States use excess material from Russian weapons programs to generate power, which is a vital component of United States nonproliferation policy;

Whereas many countries intend to build new nuclear power plants, with 29 new plants currently under construction worldwide and more than twice that many being planned, and the United States must continue to play a leadership role both in domestic nuclear power production and in encouraging the use of nuclear power in other countries; and

Whereas the United States continues to lead the world in the development, use, and control of nuclear technology: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the essential role of nuclear power in the national energy policy of the United States; and

(2) supports the increased use of nuclear power and the construction and development of new and improved nuclear power generating plants as a means of contributing to national energy independence and maintaining a clean environment.

Mr. DOMENICI. Mr. President, I rise to submit a resolution recognizing the essential role that nuclear power plays in our national energy policy and to voice support for this remarkable technology. America's nuclear power reactors supply electricity for one in five homes and businesses in the United States and do so affordably, reliably and without producing any emissions. To ensure that nuclear energy's important contribution to our nation continues, we must develop and build new nuclear power plants based on advanced technology and safety features.

Our Nation will require 40 percent more energy by 2020, requiring the use of all available energy sources—wind, solar, hydro, natural gas, coal and nuclear energy. Even the most aggressive conservation and energy efficient programs will not satisfy all of our increasing energy needs. We will require significant additional electric generating capacity to meet this rising demand—electricity generation that is absolutely necessary to keep our economy growing. And we must provide this new power while protecting our environment.

America's 103 nuclear power reactors provide safe, clean and reliable, baseload electricity around the clock. Over the past 50 years, America's nuclear power plants have posted a safety

record that is unrivalled. In addition, nuclear plants produce electricity without producing harmful emissions or greenhouse gases. Nuclear energy is the only major energy source that is both emission-free and expandable.

The use of nuclear energy also reduces our dependence on foreign sources of energy. Protecting our Nation's energy independence must remain at the forefront of our energy policy decisions.

Since scientists first harnessed the power of the atom for the benefit of mankind, the United States has led the world in the development of nuclear science and technology. With some 29 nuclear reactors under construction in other countries, the United State's leadership role in commercial nuclear power could be diminished. Our scientists, engineers and technicians must research, develop and build new nuclear facilities to keep their skills sharp and further their knowledge. In addition, new plant project also will mean more jobs for those scientists, engineers and technicians, as well as many other trades.

America's nuclear power plants contribute to nonproliferation efforts. Through the public-private ''Megatons to Megawatts'' program, which this body has strongly supported, 50 percent of the fuel used in our commercial reactors comes from converted Russian warheads.

Nuclear energy also is one of the most efficient means of producing hydrogen, another key to our energy future. Hydrogen will help reduce our dependence on imported petroleum in the transportation sector, and, like nuclear energy, is a clean air energy.

Therefore, I call upon my colleagues to join me in support of this resolution recognizing nuclear energy's important contributions to our Nation, such as maintaining our energy independence and protecting our environment. And I urge all of you to join me in supporting research, development and construction of new nuclear power plants today, so that nuclear energy can continue providing these benefits in the future.

AMENDMENTS SUBMITTED & PROPOSED

SA 3975. Ms. COLLINS (for Mr. HATCH (for himself and Mr. LEAHY)) proposed an amendment to the bill H.R. 1417, To amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges.

SA 3976. Ms. COLLINS (for Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. BOND, and Mr. REID)) proposed an amendment to the bill S. 1134, to reauthorize and improve the programs authorized by the Public Works and Economic Development Act of 1965.

SA 3977. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3978. Ms. COLLINS (for Mr. ENSIGN) proposed an amendment to the bill S. 2845, supra.

SA 3979. Ms. COLLINS (for Mr. KYL) proposed an amendment to the bill S. 2845, supra.

SA 3980. Mr. LIEBERMAN (for Mr. SCHUMER) proposed an amendment to the bill S. 2845, supra.

SA 3981. Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) proposed an amendment to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

SA 3982. Mr. FRIST (for Mr. HATCH (for himself and Mr. BIDEN)) proposed an amendment to the bill S. 2195, to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

SA 3983. Mr. MCCONNELL (for Mr. MCCAIN (for himself and Mr. NELSON, of Florida)) proposed an amendment to the bill H.R. 2608, to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes.

SA 3984. Mr. BAYH (for himself, Mr. ROBERTS, Mr. WYDEN, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; which was ordered to lie on the table.

SA 3985. Mr. CHAMBLISS (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3975. Ms. COLLINS (for Mr. HATCH (for himself and Mr. LEAHY)) proposed an amendment to the bill H.R. 1417, to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Copyright Royalty and Distribution Reform Act of 2004''.

SEC. 2. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 17, United States Code.

SEC. 3. COPYRIGHT ROYALTY JUDGE AND STAFF.

(a) IN GENERAL.—Chapter 8 is amended to read as follows:

''CHAPTER 8—PROCEEDINGS BY COPYRIGHT ROYALTY JUDGES

''§ 801. Copyright Royalty Judges; appointment and functions

''(a) APPOINTMENT.—The Librarian of Congress shall appoint 3 full-time Copyright Royalty Judges, and shall appoint 1 of the 3 as the Chief Copyright Royalty Judge. The Librarian shall make appointments to such positions after consultation with the Register of Copyrights.

''(b) FUNCTIONS.—Subject to the provisions of this chapter, the functions of the Copyright Royalty Judges shall be as follows:

''(1) To make determinations and adjustments of reasonable terms and rates of royalty payments as provided in sections 112(e), 114, 115, 116, 118, 119 and 1004. The rates applicable under sections 114(f)(1)(B), 115, and 116 shall be calculated to achieve the following objectives:

''(A) To maximize the availability of creative works to the public.

''(B) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

''(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.

''(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

''(2) To make determinations concerning the adjustment of the copyright royalty rates under section 111 solely in accordance with the following provisions:

''(A) The rates established by section 111(d)(1)(B) may be adjusted to reflect—

''(i) national monetary inflation or deflation; or

''(ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of October 19, 1976,

except that—

''(I) if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(1)(B) shall be permitted; and

''(II) no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber.

The Copyright Royalty Judges may consider all factors relating to the maintenance of such level of payments, including, as an extenuating factor, whether the industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

''(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(1)(B) may be adjusted to ensure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Judges shall consider, among other factors, the economic impact on copyright owners and users; except that no adjustment in royalty rates shall be made under this subparagraph with

respect to any distant signal equivalent or fraction thereof represented by—

''(i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal; or

''(ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

''(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(1)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

''(D) The gross receipts limitations established by section 111(d)(1) (C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section, and the royalty rate specified therein shall not be subject to adjustment.

''(3)(A) To authorize the distribution, under sections 111, 119, and 1007, of those royalty fees collected under sections 111, 119, and 1005, as the case may be, to the extent that the Copyright Royalty Judges have found that the distribution of such fees is not subject to controversy.

''(B) In cases where the Copyright Royalty Judges determine that controversy exists, the Copyright Royalty Judges shall determine the distribution of such fees, including partial distributions, in accordance with section 111, 119, or 1007, as the case may be.

''(C) The Copyright Royalty Judges may make a partial distribution of such fees during the pendency of the proceeding under subparagraph (B) if all participants under section 803(b)(2) in the proceeding that are entitled to receive those fees that are to be partially distributed—

''(i) agree to such partial distribution;

''(ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the fees made under subparagraph (B);

''(iii) file the agreement with the Copyright Royalty Judges; and

''(iv) agree that such funds are available for distribution.

''(D) The Copyright Royalty Judges and any other officer or employee acting in good faith in distributing funds under subparagraph (C) shall not be held liable for the payment of any excess fees under subparagraph (C). The Copyright Royalty Judges shall, at the time the final determination is made, calculate any such excess amounts.

''(4) To accept or reject royalty claims filed under sections 111, 119, and 1007, on the basis of timeliness or the failure to establish the basis for a claim.

''(5) To accept or reject rate adjustment petitions as provided in section 804 and petitions to participate as provided in section 803(b) (1) and (2).

''(6) To determine the status of a digital audio recording device or a digital audio interface device under sections 1002 and 1003, as provided in section 1010.

''(7)(A) To adopt as a basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, an agreement concerning such matters reached among some or all of the participants in a proceeding at any time during the proceeding, except that—

''(i) the Copyright Royalty Judges shall provide to those that would be bound by the terms, rates, or other determination set by any agreement in a proceeding to determine royalty rates an opportunity to comment on the agreement and shall provide to the other participants in the proceeding under section 803(b)(2) that would be bound by the terms, rates, or other determination set by the agreement an opportunity to comment on the agreement and object to its adoption as a basis for statutory terms and rates; and

''(ii) the Copyright Royalty Judges may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement, if any other participant described in subparagraph (A) objects to the agreement and the Copyright Royalty Judges conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates.

''(B) License agreements voluntarily negotiated pursuant to section 112(e)(5), 114(f)(3), 115(c)(3)(E)(i), 116(c), or 118(b) (2) or (3) that do not result in statutory terms and rates shall not be subject to clauses (i) and (ii) of subparagraph (A).

''(C) Interested parties may negotiate and agree to, and the Copyright Royalty Judges may adopt, an agreement that specifies as terms notice and recordkeeping requirements that apply in lieu of those that would otherwise apply under regulations.

''(8) To perform other duties, as assigned by the Register of Copyrights within the Library of Congress, except as provided in section 802(g) at times when Copyright Royalty Judges are not engaged in performing the other duties set forth in this section.

''(c) RULINGS.—As provided in section 802(f)(1), the Copyright Royalty Judges may make any necessary procedural or evidentiary rulings in any proceeding under this chapter and may, before commencing a proceeding under this chapter, make any such rulings that would apply to the proceedings conducted by the Copyright Royalty Judges.

''(d) ADMINISTRATIVE SUPPORT.—The Librarian of Congress shall provide the Copyright Royalty Judges with the necessary administrative services related to proceedings under this chapter.

''(e) LOCATION IN LIBRARY OF CONGRESS.—The offices of the Copyright Royalty Judges and staff shall be in the Library of Congress.

''§ 802. Copyright Royalty Judgeships; staff

''(a) QUALIFICATIONS OF COPYRIGHT ROYALTY JUDGES.—

''(1) IN GENERAL.—Each Copyright Royalty Judge shall be an attorney who has at least 7 years of legal experience. The Chief Copyright Royalty Judge shall have at least 5 years of experience in adjudications, arbitrations, or court trials. Of the other two Copyright Royalty Judges, one shall have significant knowledge of copyright law, and the other shall have significant knowledge of economics. An individual may serve as a Copyright Royalty Judge only if the individual is free of any financial conflict of interest under subsection (h).

''(2) DEFINITION.—In this subsection, the term 'adjudication' has the meaning given that term in section 551 of title 5, but does not include mediation.

''(b) STAFF.—The Chief Copyright Royalty Judge shall hire 3 full-time staff members to assist the Copyright Royalty Judges in performing their functions.

''(c) TERMS.—The individual first appointed the Chief Copyright Royalty Judge shall be appointed to a term of 6 years, and of the remaining individuals first appointed Copyright Royalty Judges, 1 shall be appointed to a term of 4 years, and the other shall be appointed to a term of 2 years. Thereafter, the terms of succeeding Copyright Royalty Judges shall each be 6 years. An individual serving as a Copyright Royalty Judge may be reappointed to subsequent terms. The term of a Copyright Royalty Judge shall begin when the term of the predecessor of that Copyright Royalty Judge ends. When the term of office of a Copyright Royalty Judge ends, the individual serving that term may continue to serve until a successor is selected.

''(d) VACANCIES OR INCAPACITY.—

''(1) VACANCIES.—If a vacancy should occur in the position of Copyright Royalty Judge, the Librarian of Congress shall act expeditiously to fill the vacancy, and may appoint an interim Copyright Royalty Judge to serve until another Copyright Royalty Judge is appointed under this section. An individual appointed to fill the vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed shall be appointed for the remainder of that term.

''(2) INCAPACITY.—In the case in which a Copyright Royalty Judge is temporarily unable to perform his or her duties, the Librarian of Congress may appoint an interim Copyright Royalty Judge to perform such duties during the period of such incapacity.

''(e) COMPENSATION.—

''(1) JUDGES.—The Chief Copyright Royalty Judge shall receive compensation at the rate of basic pay payable for level AL–1 for administrative law judges pursuant to section 5372(b) of title 5, and each of the other two Copyright Royalty Judges shall receive compensation at the rate of basic pay payable for level AL–2 for administrative law judges pursuant to such section. The compensation of the Copyright Royalty Judges shall not be subject to any regulations adopted by the Office of Personnel Management pursuant to its authority under section 5376(b)(1) of title 5.

''(2) STAFF MEMBERS.—Of the staff members appointed under subsection (b)—

''(A) the rate of pay of 1 staff member shall be not more than the basic rate of pay payable for level 10 of GS–15 of the General Schedule;

''(B) the rate of pay of 1 staff member shall be not less than the basic rate of pay payable for GS–13 of the General Schedule and not more than the basic rate of pay payable for level 10 of GS–14 of such Schedule; and

''(C) the rate of pay for the third staff member shall be not less than the basic rate of pay payable for GS–8 of the General Schedule and not more than the basic rate of pay payable for level 10 of GS–11 of such Schedule.

''(3) LOCALITY PAY.—All rates of pay referred to under this subsection shall include locality pay.

''(f) INDEPENDENCE OF COPYRIGHT ROYALTY JUDGE.—

''(1) IN MAKING DETERMINATIONS.—

''(A) IN GENERAL.—(i) Subject to clause (ii) of this subparagraph and subparagraph (B), the Copyright Royalty Judges shall have full independence in making determinations concerning adjustments and determinations of copyright royalty rates and terms, the distribution of copyright royalties, the acceptance or rejection of royalty claims, rate adjustment petitions, and petitions to participate, and in issuing other rulings under this title, except that the Copyright Royalty Judges may consult with the Register of Copyrights on any matter other than a question of fact.

''(ii) A Copyright Royalty Judge or Judges, or, by motion to the Copyright Royalty Judge or Judges, any participant in a proceeding may request an interpretation by the Register of Copyrights concerning any material question of substantive law (not including questions of procedure before the Copyright Royalty Judges, the ultimate adjustments and determinations of copyright royalty rates and terms, the ultimate distribution of copyright royalties, or the acceptance or rejection of royalty claims, rate adjustment petitions, or petitions to participate) concerning an interpretation or construction of those provisions of this title that are the subject of the proceeding. Any such request for a written interpretation by the Register of Copyrights shall be on the record. Reasonable provision shall be made for comment by the participants in the proceeding on the material question of substantive law in such a way as to minimize duplication and delay. Except as provided in subparagraph (B), the Register of Copyrights shall deliver to the Copyright Royalty Judges a response within 14 days of receipt by the Register of Copyrights of all of the briefs or comments of the participants. Such decision shall be in writing and shall be included by the Copyright Royalty Judges in the record that accompanies their final determination. If such a decision is timely delivered to the Copyright Royalty Judges, the Copyright Royalty Judges shall apply the legal interpretation embodied in the response of the Register of Copyrights in resolving material questions of substantive law.

''(B) NOVEL QUESTIONS.—(i) In any case in which a novel material question of substantive law concerning an interpretation of those provisions of this title that are the subject of the proceeding is presented, the Copyright Royalty Judges shall request a decision of the Register of Copyrights, in writing, to resolve such novel question. Reasonable provision shall be made for comment on such request by the participants in the proceeding, in such a way as to minimize duplication and delay. The Register shall transmit his or her decision to the Copyright Royalty Judges within 30 days of receipt by the Register of Copyrights of all of the briefs or comments of the participants. Such decision shall be in writing and included by the Copyright Royalty Judges in the record that accompanies their final determination. If such a decision is timely delivered, the Copyright Royalty Judges shall apply the legal determinations embodied in the decision of the Register of Copyrights in resolving material questions of substantive law.

''(ii) In clause (i), a 'novel question of law' is a question of law that has not been determined in prior decisions, determinations, and rulings described in section 803(a).

''(C) CONSULTATION.—Notwithstanding the provisions of subparagraph (A), the Copyright Royalty Judges shall consult with the Register of Copyrights with respect to any determination or ruling that would require that any act be performed by the Copyright Office, and any such determination or ruling shall not be binding upon the Register of Copyrights.

''(D) REVIEW OF LEGAL CONCLUSIONS BY THE REGISTER OF COPYRIGHTS.—The Register of Copyrights may review for legal error the resolution by the Copyright Royalty Judges of a material question of substantive law under this title that underlies or is contained in a final determination of the Copyright Royalty Judges. If the Register of Copyrights concludes, after taking into consideration the views of the participants in the proceeding, that any resolution reached by the Copyright Royalty Judges was in material error, the Register of Copyrights shall issue a written decision correcting such legal error, which shall be made part of the record of the proceeding. Additionally, the Register of Copyrights shall cause to be published in the Federal Register such written decision together with a specific identification of the legal conclusion of the Copyright Royalty Judges that is determined to be erroneous. As to conclusions of substantive law involving an interpretation of the statutory provisions of this title, the decision of the Register of Copyrights shall be binding as precedent upon the Copyright Royalty Judges in subsequent proceedings under this chapter. When a decision has been rendered pursuant to section 802(f)(1)(D), the Register of Copyrights may, on the basis of and in accordance with such decision, intervene as of right in any appeal of a final determination of the Copyright Royalty Judges pursuant to section 803(d) in the United States Court of Appeals for the District of Columbia Circuit. If, prior to intervening in such an appeal, the Register of Copyrights gives notification and undertakes to consult with the Attorney General with respect to such intervention, and the Attorney General fails within reasonable period after receipt of such notification to intervene in such appeal, the Register of Copyrights may intervene in such appeal in his or her own name by any attorney designated by the Register of Copyrights for such purpose. Intervention by the Register of Copyrights in his or her own name shall not preclude the Attorney General from intervening on behalf of the United States in such an appeal as may be otherwise provided or required by law.

''(E) EFFECT ON JUDICIAL REVIEW.—Nothing in this section shall be interpreted to alter the standard applied by a court in reviewing legal determinations involving an interpretation or construction of the provisions of this title or to affect the extent to which any construction or interpretation of the provisions of this title shall be accorded deference by a reviewing court.

''(2) PERFORMANCE APPRAISALS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law or any regulation of the Library of Congress, and subject to subparagraph (B), the Copyright Royalty Judges shall not receive performance appraisals.

''(B) RELATING TO SANCTION OR REMOVAL.—To the extent that the Librarian of Congress adopts regulations under subsection (h) relating to the sanction or removal of a Copyright Royalty Judge and such regulations require documentation to establish the cause of such sanction or removal, the Copyright Royalty Judge may receive an appraisal related specifically to the cause of the sanction or removal.

''(g) INCONSISTENT DUTIES BARRED.—No Copyright Royalty Judge may undertake duties that conflict with his or her duties and responsibilities as a Copyright Royalty Judge.

''(h) STANDARDS OF CONDUCT.—The Librarian of Congress shall adopt regulations regarding the standards of conduct, including financial conflict of interest and restrictions against ex parte communications, which shall govern the Copyright Royalty Judges and the proceedings under this chapter.

''(i) REMOVAL OR SANCTION.—The Librarian of Congress may sanction or remove a Copyright Royalty Judge for violation of the standards of conduct adopted under subsection (h), misconduct, neglect of duty, or any disqualifying physical or mental disability. Any such sanction or removal may be made only after notice and opportunity for a hearing, but the Librarian of Congress may suspend the Copyright Royalty Judge during the pendency of such hearing. The Librarian shall appoint an interim Copyright Royalty Judge during the period of any such suspension.

''§ 803. Proceedings of Copyright Royalty Judges

''(a) PROCEEDINGS.—

''(1) IN GENERAL.—The Copyright Royalty Judges shall act in accordance with regulations issued by the Copyright Royalty Judges and the Librarian of Congress, and on the basis of a written record, prior determinations and interpretations of the Copyright Royalty Tribunal, Librarian of Congress, copyright arbitration royalty panels, the Register of Copyrights, and the Copyright Royalty Judges (to the extent those determinations are not inconsistent with a decision of the Register of Copyrights that was timely delivered to the Copyright Royalty Judges pursuant to section 802(f)(1) (A) or (B), or with a decision of the Register of Copyrights pursuant to section 802(f)(1)(D)), under this chapter, and decisions of the court of appeals under this chapter before, on, or after the effective date of the Copyright Royalty and Distribution Reform Act of 2004.

''(2) JUDGES ACTING AS PANEL AND INDIVIDUALLY.—The Copyright Royalty Judges shall preside over hearings in proceedings under this chapter en banc. The Chief Copyright Royalty Judge may designate a Copyright Royalty Judge to preside individually over such collateral and administrative proceedings, and over such proceedings under paragraphs (1) through (5) of subsection (b), as the Chief Judge considers appropriate.

''(3) DETERMINATIONS.—Final determinations of the Copyright Royalty Judges in proceedings under this chapter shall be made by majority vote. A Copyright Royalty Judge dissenting from the majority on any determination under this chapter may issue his or her dissenting opinion, which shall be included with the determination.

''(b) PROCEDURES.—

''(1) INITIATION.—

''(A) CALL FOR PETITIONS TO PARTICIPATE.—(i) Promptly upon a determination made under section 804(a), or no later than January 5 of a year specified in section 804(b) (2) or (3), or as provided under section 804(b)(8), or by no later than January 5 of a year specified in section 804 for the commencement of a proceeding if a petition has not been filed by that date, the Copyright Royalty Judges shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter calling for the filing of petitions to participate in a proceeding under this chapter for the purpose of making the relevant determination under section 111, 112, 114, 115, 116, 118, 119, 1004, or 1007, as the case may be.

''(ii) Petitions to participate shall be filed by no later than 30 days after publication of notice of commencement of a proceeding, under clause (i), except that the Copyright Royalty Judges may, for substantial good cause shown and if there is no prejudice to the participants that have already filed petitions, accept late petitions to participate at any time up to the date that is 90 days before the date on which participants in the proceeding are to file their written direct statements. Notwithstanding the preceding sentence, petitioners whose petitions are filed more than 30 days after publication of notice of commencement of a proceeding are not eligible to object to a settlement reached during the voluntary negotiation period under section 803(b)(3), and any objection filed by such a petitioner shall not be taken into account by the Copyright Royalty Judges.

''(B) PETITIONS TO PARTICIPATE.—Each petition to participate in a proceeding shall describe the petitioner's interest in the subject

matter of the proceeding. Parties with similar interests may file a single petition to participate.

''(2) PARTICIPATION IN GENERAL.—Subject to paragraph (4), a person may participate in a proceeding under this chapter, including through the submission of briefs or other information, only if—

''(A) that person has filed a petition to participate in accordance with paragraph (1) (either individually or as a group under paragraph (1)(B)), together with a filing fee of $150;

''(B) the Copyright Royalty Judges have not determined that the petition to participate is facially invalid; and

''(C) the Copyright Royalty Judges have not determined, sua sponte or on the motion of another participant in the proceeding, that the person lacks a significant interest in the proceeding.

''(3) VOLUNTARY NEGOTIATION PERIOD.—

''(A) IN GENERAL.—Promptly after the date for filing of petitions to participate in a proceeding, the Copyright Royalty Judges shall make available to all participants in the proceeding a list of such participants and shall initiate a voluntary negotiation period among the participants.

''(B) LENGTH OF PROCEEDINGS.—The voluntary negotiation period initiated under subparagraph (A) shall be 3 months.

''(C) DETERMINATION OF SUBSEQUENT PROCEEDINGS.—At the close of the voluntary negotiation proceedings, the Copyright Royalty Judges shall, if further proceedings under this chapter are necessary, determine whether and to what extent paragraphs (4) and (5) will apply to the parties.

''(4) SMALL CLAIMS PROCEDURE IN DISTRIBUTION PROCEEDINGS.—

''(A) IN GENERAL.—If, in a proceeding under this chapter to determine the distribution of royalties, a participant in the proceeding asserts a claim in the amount of $10,000 or less, the Copyright Royalty Judges shall decide the controversy on the basis of the filing of the written direct statement by the participant, the response by any opposing participant, and 1 additional response by each such party. The participant asserting the claim shall not be required to pay the filing fee under paragraph (2).

''(B) BAD FAITH INFLATION OF CLAIM.—If the Copyright Royalty Judges determine that a participant asserts in bad faith an amount in controversy in excess of $10,000 for the purpose of avoiding a determination under the procedure set forth in subparagraph (A), the Copyright Royalty Judges shall impose a fine on that participant in an amount not to exceed the difference between the actual amount distributed and the amount asserted by the participant.

''(5) PAPER PROCEEDINGS.—The Copyright Royalty Judges in proceedings under this chapter may decide, sua sponte or upon motion of a participant, to determine issues on the basis of the filing of the written direct statement by the participant, the response by any opposing participant, and one additional response by each such participant. Prior to making such decision to proceed on such a paper record only, the Copyright Royalty Judges shall offer to all parties to the proceeding the opportunity to comment on the decision. The procedure under this paragraph—

''(A) shall be applied in cases in which there is no genuine issue of material fact, there is no need for evidentiary hearings, and all participants in the proceeding agree in writing to the procedure; and

''(B) may be applied under such other circumstances as the Copyright Royalty Judges consider appropriate.

''(6) REGULATIONS.—

''(A) IN GENERAL.—The Copyright Royalty Judges may issue regulations to carry out their functions under this title. All regulations issued by the Copyright Royalty Judges are subject to the approval of the Librarian of Congress. Not later than 120 days after Copyright Royalty Judges or interim Copyright Royalty Judges, as the case may be, are first appointed after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, such judges shall issue regulations to govern proceedings under this chapter.

''(B) INTERIM REGULATIONS.—Until regulations are adopted under subparagraph (A), the Copyright Royalty Judges shall apply the regulations in effect under this chapter on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, to the extent such regulations are not inconsistent with this chapter, except that functions carried out under such regulations by the Librarian of Congress, the Register of Copyrights, or copyright arbitration royalty panels that, as of such date of enactment, are to be carried out by the Copyright Royalty Judges under this chapter, shall be carried out by the Copyright Royalty Judges under such regulations.

''(C) REQUIREMENTS.—Regulations issued under subparagraph (A) shall include the following:

''(i) The written direct statements of all participants in a proceeding under paragraph (2) shall be filed by a date specified by the Copyright Royalty Judges, which may be not earlier than 4 months, and not later than 5 months, after the end of the voluntary negotiation period under paragraph (3). Notwithstanding the preceding sentence, the Copyright Royalty Judges may allow a participant in a proceeding to file an amended written direct statement based on new information received during the discovery process, within 15 days after the end of the discovery period specified in clause (iii).

''(ii)(I) Following the submission to the Copyright Royalty Judges of written direct statements by the participants in a proceeding under paragraph (2), the judges shall meet with the participants for the purpose of setting a schedule for conducting and completing discovery. Such schedule shall be determined by the Copyright Royalty Judges.

''(II) In this chapter, the term 'written direct statements' means witness statements, testimony, and exhibits to be presented in the proceedings, and such other information that is necessary to establish terms and rates, or the distribution of royalty payments, as the case may be, as set forth in regulations issued by the Copyright Royalty Judges.

''(iii) Hearsay may be admitted in proceedings under this chapter to the extent deemed appropriate by the Copyright Royalty Judges.

''(iv) Discovery in such proceedings shall be permitted for a period of 60 days, except for discovery ordered by the Copyright Royalty Judges in connection with the resolution of motions, orders and disputes pending at the end of such period.

''(v) Any participant under paragraph (2) in a proceeding under this chapter to determine royalty rates may request of an opposing participant nonprivileged documents directly related to the written direct statement or written rebuttal statement of that participant. Any objection to such a request shall be resolved by a motion or request to compel production made to the Copyright Royalty Judges according to regulations adopted by the Copyright Royalty Judges. Each motion or request to compel discovery shall be determined by the Copyright Royalty Judges, or by a Copyright Royalty Judge when permitted under subsection (a)(2). Upon such motion, the Copyright Royalty Judges may order discovery pursuant to regulations established under this paragraph.

''(vi)(I) Any participant under paragraph (2) in a proceeding under this chapter to determine royalty rates may, by means of written motion or on the record, request of an opposing participant or witness other relevant information and materials if absent the discovery sought the Copyright Royalty Judges' resolution of the proceeding would be substantially impaired. In determining whether discovery will be granted under this clause, the Copyright Royalty Judges may consider—

''(aa) whether the burden or expense of producing the requested information or materials outweighs the likely benefit, taking into account the needs and resources of the participants, the importance of the issues at stake, and the probative value of the requested information or materials in resolving such issues;

''(bb) whether the requested information or materials would be unreasonably cumulative or duplicative, or are obtainable from another source that is more convenient, less burdensome, or less expensive; and

''(cc) whether the participant seeking discovery has had ample opportunity by discovery in the proceeding or by other means to obtain the information sought.

''(II) This clause shall not apply to any proceeding scheduled to commence after December 31, 2010.

''(vii) In a proceeding under this chapter to determine royalty rates, the participants entitled to receive royalties shall collectively be permitted to take no more than 10 depositions and secure responses to no more than 25 interrogatories and the participants obligated to pay royalties shall collectively be permitted to take no more than 10 depositions and secure responses to no more than 25 interrogatories. The Copyright Royalty Judges shall resolve any disputes among similarly aligned participants to allocate the number of depositions or interrogatories permitted under this clause.

''(viii) The rules and practices in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, relating to discovery in proceedings under this chapter to determine the distribution of royalty fees, shall continue to apply to such proceedings on and after such effective date.

''(ix) In proceedings to determine royalty rates, the Copyright Royalty Judges may issue a subpoena commanding a participant or witness to appear and give testimony or to produce and permit inspection of documents or tangible things if the Copyright Royalty Judges' resolution of the proceeding would be substantially impaired by the absence of such testimony or production of documents or tangible things. Such subpoena shall specify with reasonable particularity the materials to be produced or the scope and nature of the required testimony. Nothing in this subparagraph shall preclude the Copyright Royalty Judges from requesting the production by a nonparticipant of information or materials relevant to the resolution by the Copyright Royalty Judges of a material issue of fact.

''(x) The Copyright Royalty Judges shall order a settlement conference among the participants in the proceeding to facilitate the presentation of offers of settlement among the participants. The settlement conference shall be held during a 21-day period following the end of the discovery period and shall take place outside the presence of the Copyright Royalty Judges.

''(xi) No evidence, including exhibits, may be submitted in the written direct statement

or written rebuttal statement of a participant without a sponsoring witness, except where the Copyright Royalty Judges have taken official notice, or in the case of incorporation by reference of past records, or for good cause shown.

''(c) DETERMINATION OF COPYRIGHT ROYALTY JUDGES.—

''(1) TIMING.—The Copyright Royalty Judges shall issue their determination in a proceeding not later than 11 months after the conclusion of the 21-day settlement conference period under subsection (b)(3)(C)(x), but, in the case of a proceeding to determine successors to rates or terms that expire on a specified date, in no event later than 15 days before the expiration of the then current statutory rates and terms.

''(2) REHEARINGS.—

''(A) IN GENERAL.—The Copyright Royalty Judges may, in exceptional cases, upon motion of a participant under subsection (b)(2), order a rehearing, after the determination in a proceeding is issued under paragraph (1), on such matters as the Copyright Royalty Judges determine to be appropriate.

''(B) TIMING FOR FILING MOTION.—Any motion for a rehearing under subparagraph (A) may only be filed within 15 days after the date on which the Copyright Royalty Judges deliver their initial determination concerning rates and terms to the participants in the proceeding.

''(C) PARTICIPATION BY OPPOSING PARTY NOT REQUIRED.—In any case in which a rehearing is ordered, any opposing party shall not be required to participate in the rehearing, except as provided under subsection (d)(1).

''(D) NO NEGATIVE INFERENCE.—No negative inference shall be drawn from lack of participation in a rehearing.

''(E) CONTINUITY OF RATES AND TERMS.—(i) If the decision of the Copyright Royalty Judges on any motion for a rehearing is not rendered before the expiration of the statutory rates and terms that were previously in effect, in the case of a proceeding to determine successors to rates and terms that expire on a specified date, then—

''(I) the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion shall be effective as of the day following the date on which the rates and terms that were previously in effect expire; and

''(II) in the case of a proceeding under section 114(f)(1)(C) or 114(f)(2)(C), royalty rates and terms shall, for purposes of section 114(f)(4)(B), be deemed to have been set at those rates and terms contained in the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion, as of the date of that determination.

''(ii) The pendency of a motion for a rehearing under this paragraph shall not relieve persons obligated to make royalty payments who would be affected by the determination on that motion from providing the statements of account and any reports of use, to the extent required, and paying the royalties required under the relevant determination or regulations.

''(iii) Notwithstanding clause (ii), whenever royalties described in clause (ii) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the motion for rehearing is resolved or, if the motion is granted, within 60 days after the rehearing is concluded, return any excess amounts previously paid to the extent necessary to comply with the final determination of royalty rates by the Copyright Royalty Judges. Any underpayment of royalties resulting from a rehearing shall be paid within the same period.

''(3) CONTENTS OF DETERMINATION.—A determination of the Copyright Royalty Judges shall be supported by the written record and shall set forth the findings of fact relied on by the Copyright Royalty Judges. Among other terms adopted in a determination, the Copyright Royalty Judges may specify notice and recordkeeping requirements of users of the copyrights at issue that apply in lieu of those that would otherwise apply under regulations.

''(4) CONTINUING JURISDICTION.—The Copyright Royalty Judges may, with the approval of the Register of Copyrights, issue an amendment to a written determination to correct any technical or clerical errors in the determination or to modify the terms, but not the rates, of royalty payments in response to unforeseen circumstances that would frustrate the proper implementation of such determination. Such amendment shall be set forth in a written addendum to the determination that shall be distributed to the participants of the proceeding and shall be published in the Federal Register.

''(5) PROTECTIVE ORDER.—The Copyright Royalty Judges may issue such orders as may be appropriate to protect confidential information, including orders excluding confidential information from the record of the determination that is published or made available to the public, except that any terms or rates of royalty payments or distributions may not be excluded.

''(6) PUBLICATION OF DETERMINATION.—Following review of the determination by the Register of Copyrights under section 802(f)(1)(D), the Librarian of Congress shall cause the determination, and any corrections thereto, to be published in the Federal Register. The Librarian of Congress shall also publicize the determination and corrections in such other manner as the Librarian considers appropriate, including, but not limited to, publication on the Internet. The Librarian of Congress shall also make the determination, corrections, and the accompanying record available for public inspection and copying.

''(7) LATE PAYMENT.—A determination of Copyright Royalty Judges may include terms with respect to late payment, but in no way shall such terms prevent the copyright holder from asserting other rights or remedies provided under this title.

''(d) JUDICIAL REVIEW.—

''(1) APPEAL.—Any determination of the Copyright Royalty Judges under subsection (c) may, within 30 days after the publication of the determination in the Federal Register, be appealed, to the United States Court of Appeals for the District of Columbia Circuit, by any aggrieved participant in the proceeding under subsection (b)(2) who fully participated in the proceeding and who would be bound by the determination. Any participant that did not participate in a rehearing may not raise any issue that was the subject of that rehearing at any stage of judicial review of the hearing determination. If no appeal is brought within that 30-day period, the determination of the Copyright Royalty Judges shall be final, and the royalty fee or determination with respect to the distribution of fees, as the case may be, shall take effect as set forth in paragraph (2).

''(2) EFFECT OF RATES.—

''(A) EXPIRATION ON SPECIFIED DATE.—When this title provides that the royalty rates and terms that were previously in effect are to expire on a specified date, any adjustment or determination by the Copyright Royalty Judges of successor rates and terms for an ensuing statutory license period shall be effective as of the day following the date of expiration of the rates and terms that were previously in effect, even if the determination of the Copyright Royalty Judges is rendered on a later date. A transmission service shall be obligated to continue making payments under the rates and terms previously in effect until such time as rates and terms for the successor period are established. Whenever royalties pursuant to this section are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the final determination of the Copyright Royalty Judges establishing rates and terms for a successor period or the exhaustion of all rehearings or appeals of such determination, if any, return any excess amounts previously paid to the extent necessary to comply with the final determination of royalty rates. Any underpayment of royalties by a copyright user shall be paid to the entity designated by the Copyright Royalty Judges within the same period.

''(B) OTHER CASES.—In cases where rates and terms have not, prior to the inception of an activity, been established for that particular activity under the relevant license, such rates and terms shall be retroactive to the inception of activity under the relevant license covered by such rates and terms. In other cases where rates and terms do not expire on a specified date, successor rates and terms shall take effect on the first day of the second month that begins after the publication of the determination of the Copyright Royalty Judges in the Federal Register, except as otherwise provided in this title, or by the Copyright Royalty Judges, or as agreed by the participants in a proceeding that would be bound by the rates and terms. Except as otherwise provided in this title, the rates and terms, to the extent applicable, shall remain in effect until such successor rates and terms become effective.

''(C) OBLIGATION TO MAKE PAYMENTS.—

''(i) The pendency of an appeal under this subsection shall not relieve persons obligated to make royalty payments under section 111, 112, 114, 115, 116, 118, 119, or 1003, who would be affected by the determination on appeal, from—

''(I) providing the statements of account and any report of use; and

''(II) paying the royalties required under the relevant determination or regulations.

''(ii) Notwithstanding clause (i), whenever royalties described in clause (i) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the final resolution of the appeal, return any excess amounts previously paid (and interest thereon, if ordered pursuant to paragraph (3)) to the extent necessary to comply with the final determination of royalty rates on appeal. Any underpayment of royalties resulting from an appeal (and interest thereon, if ordered pursuant to paragraph (3)) shall be paid within the same period.

''(3) JURISDICTION OF COURT.—If the court, pursuant to section 706 of title 5, modifies or vacates a determination of the Copyright Royalty Judges, the court may enter its own determination with respect to the amount or distribution of royalty fees and costs, and order the repayment of any excess fees, the payment of any underpaid fees, and the payment of interest pertaining respectively thereto, in accordance with its final judgment. The court may also vacate the determination of the Copyright Royalty Judges and remand the case to the Copyright Royalty Judges for further proceedings in accordance with subsection (a).

''(e) ADMINISTRATIVE MATTERS.—

''(1) DEDUCTION OF COSTS OF LIBRARY OF CONGRESS AND COPYRIGHT OFFICE FROM FILING FEES.—

''(A) DEDUCTION FROM FILING FEES.—The Librarian of Congress may, to the extent not otherwise provided under this title, deduct from the filing fees collected under subsection (b) for a particular proceeding under this chapter the reasonable costs incurred by the Librarian of Congress, the Copyright Office, and the Copyright Royalty Judges in conducting that proceeding, other than the salaries of the Copyright Royalty Judges and the 3 staff members appointed under section 802(b).

''(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to pay the costs incurred under this chapter not covered by the filing fees collected under subsection (b). All funds made available pursuant to this subparagraph shall remain available until expended.

''(2) POSITIONS REQUIRED FOR ADMINISTRATION OF COMPULSORY LICENSING.—Section 307 of the Legislative Branch Appropriations Act, 1994, shall not apply to employee positions in the Library of Congress that are required to be filled in order to carry out section 111, 112, 114, 115, 116, 118, or 119 or chapter 10.

''§ 804. Institution of proceedings

''(a) FILING OF PETITION.—With respect to proceedings referred to in paragraphs (1) and (2) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 111, 112, 114, 115, 116, 118, 119, and 1004, during the calendar years specified in the schedule set forth in subsection (b), any owner or user of a copyrighted work whose royalty rates are specified by this title, or are established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests a determination or adjustment of the rate. The Copyright Royalty Judges shall make a determination as to whether the petitioner has such a significant interest in the royalty rate in which a determination or adjustment is requested. If the Copyright Royalty Judges determine that the petitioner has such a significant interest, the Copyright Royalty Judges shall cause notice of this determination, with the reasons for such determination, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter. With respect to proceedings under paragraph (1) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 112 and 114, during the calendar years specified in the schedule set forth in subsection (b), the Copyright Royalty Judges shall cause notice of commencement of proceedings under this chapter to be published in the Federal Register as provided in section 803(b)(1)(A).

''(b) TIMING OF PROCEEDINGS.—

''(1) SECTION 111 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (A) or (D) of section 801(b)(2) applies may be filed during the year 2005 and in each subsequent fifth calendar year.

''(B) In order to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (B) or (C) of section 801(b)(2) applies, within 12 months after an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests an adjustment of the rate. The Copyright Royalty Judges shall then proceed as set forth in subsection (a) of this section. Any change in royalty rates made under this chapter pursuant to this subparagraph may be reconsidered in the year 2005, and each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(3) (B) or (C), as the case may be. A petition for adjustment of rates established by section 111(d)(1)(B) as a result of a change is the rules and regulations of the Federal Communications Commission shall set forth the change on which the petition is based.

''(C) Any adjustment of royalty rates under section 111 shall take effect as of the first accounting period commencing after the publication of the determination of the Copyright Royalty Judges in the Federal Register, or on such other date as is specified in that determination.

''(2) CERTAIN SECTION 112 PROCEEDINGS.—Proceedings under this chapter shall be commenced in the year 2007 to determine reasonable terms and rates of royalty payments for the activities described in section 112(e)(1) relating to the limitation on exclusive rights specified by section 114(d)(1)(C)(iv), to become effective on January 1, 2009. Such proceedings shall be repeated in each subsequent fifth calendar year.

''(3) SECTION 114 AND CORRESPONDING 112 PROCEEDINGS.—

''(A) FOR ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES.—Proceedings under this chapter shall be commenced as soon as practicable after the effective date of the Copyright Royalty and Distribution Reform Act of 2004 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of eligible nonsubscription transmission services and new subscription services, to be effective for the period beginning on January 1, 2006, and ending on December 31, 2010. Such proceedings shall next be commenced in January 2009 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2011. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

''(B) FOR PREEXISTING SUBSCRIPTION AND SATELLITE DIGITAL AUDIO RADIO SERVICES.—Proceedings under this chapter shall be commenced in January 2006 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of preexisting subscription services, to be effective during the period beginning on January 1, 2008, and ending on December 31, 2012, and preexisting satellite digital audio radio services, to be effective during the period beginning on January 1, 2007, and ending on December 31, 2012. Such proceedings shall next be commenced in 2011 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2013. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

''(C)(i) Notwithstanding any other provision of this chapter, this subparagraph shall govern proceedings commenced pursuant to section 114(f)(1)(C) and 114(f)(2)(C) concerning new types of services.

''(ii) Not later than 30 days after a petition to determine rates and terms for a new type of service that is filed by any copyright owner of sound recordings, or such new type of service, indicating that such new type of service is or is about to become operational, the Copyright Royalty Judges shall issue a notice for a proceeding to determine rates and terms for such service.

''(iii) The proceeding shall follow the schedule set forth in such subsections (b), (c), and (d) of section 803, except that—

''(I) the determination shall be issued by not later than 24 months after the publication of the notice under clause (ii); and

''(II) the decision shall take effect as provided in subsections (c)(2) and (d)(2) of section 803 and section 114(f)(4)(B)(ii) and (C).

''(iv) The rates and terms shall remain in effect for the period set forth in section 114(f)(1)(C) or 114(f)(2)(C), as the case may be.

''(4) SECTION 115 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment or determination of royalty rates as provided in section 115 may be filed in the year 2006 and in each subsequent fifth calendar year, or at such other times as the parties have agreed under section 115(c)(3)(B) and (C).

''(5) SECTION 116 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b) concerning the determination of royalty rates and terms as provided in section 116 may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire and are not replaced by subsequent agreements.

''(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Copyright Royalty Judges shall, upon petition filed under paragraph (1) within 1 year after such termination or expiration, commence a proceeding to promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of nondramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the Copyright Royalty Judges, in accordance with section 803, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).

''(6) SECTION 118 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 118 may be filed in the year 2006 and in each subsequent fifth calendar year.

''(7) SECTION 1004 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment of reasonable royalty rates under section 1004 may be filed as provided in section 1004(a)(3).

''(8) PROCEEDINGS CONCERNING DISTRIBUTION OF ROYALTY FEES.—With respect to proceedings under section 801(b)(3) concerning the distribution of royalty fees in certain circumstances under section 111, 119, or 1007, the Copyright Royalty Judges shall, upon a determination that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

''§ 805. General rule for voluntarily negotiated agreements

''Any rates or terms under this title that—

''(1) are agreed to by participants to a proceeding under section 803(b)(3),

''(2) are adopted by the Copyright Royalty Judges as part of a determination under this chapter, and

''(3) are in effect for a period shorter than would otherwise apply under a determination pursuant to this chapter,

shall remain in effect for such period of time as would otherwise apply under such determination, except that the Copyright Royalty Judges shall adjust the rates pursuant to the voluntary negotiations to reflect national monetary inflation during the additional period the rates remain in effect.''.

(b) CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by striking the item relating to chapter 8 and inserting the following:

''8. Proceedings by Copyright Royalty Judges ..... 801''.

SEC. 4. DEFINITION.

Section 101 is amended by inserting after the definition of ''copies'' the following:

''A 'Copyright Royalty Judge' is a Copyright Royalty Judge appointed under section 802 of this title, and includes any individual serving as an interim Copyright Royalty Judge under such section.''.

SEC. 5. TECHNICAL AMENDMENTS.

(a) CABLE RATES.—Section 111(d) is amended—

(1) in paragraph (2), in the second sentence, by striking ''a copyright arbitration royalty panel'' and inserting ''the Copyright Royalty Judges.''; and

(2) in paragraph (4)—

(A) in subparagraph (A), by striking ''Librarian of Congress'' each place it appears and inserting ''Copyright Royalty Judges'';

(B) in subparagraph (B)—

(i) in the first sentence, by striking ''Librarian of Congress shall, upon the recommendation of the Register of Copyrights,'' and inserting ''Copyright Royalty Judges shall'';

(ii) in the second sentence, by striking ''Librarian determines'' and inserting ''Copyright Royalty Judges determine''; and

(iii) in the third sentence—

(I) by striking ''Librarian'' each place it appears and inserting ''Copyright Royalty Judges''; and

(II) by striking ''convene a copyright arbitration royalty panel'' and inserting ''conduct a proceeding''; and

(C) in subparagraph (C), by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''.

(b) EPHEMERAL RECORDINGS.—Section 112(e) is amended—

(1) in paragraph (3)—

(A) by amending the first sentence to read as follows: ''Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for the activities specified by paragraph (1) during the 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, or such other periods as the parties may agree.''; and

(B) by striking the second sentence;

(C) in the third sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(D) in the fourth sentence, by striking ''negotiation'';

(2) in paragraph (4)—

(A) by amending the first sentence to read as follows: ''The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (5), be binding on all copyright owners of sound recordings and transmitting organizations entitled to a statutory license under this subsection during the 5-year period specified in paragraph (3), or such other period as the parties may agree.'';

(B) by striking ''copyright arbitration royalty panel'' each subsequent place it appears and inserting ''Copyright Royalty Judges'';

(C) in the fourth sentence, by striking ''its decision'' and inserting ''their decision'';

(D) in the fifth sentence, by striking ''negotiated as provided'' and inserting ''described''; and

(E) in the last sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges'';

(3) in paragraph (5), by striking ''or decision by the Librarian of Congress'' and inserting '', decision by the Librarian of Congress, or determination by the Copyright Royalty Judges'';

(4) by striking paragraph (6) and redesignating paragraphs (7), (8), and (9), as paragraphs (6), (7), and (8), respectively; and

(5) in paragraph (6)(A), as so redesignated, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''.

(c) SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS.—Section 114(f) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by amending the first sentence to read as follows: ''Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for subscription transmissions by preexisting subscription services and transmissions by preexisting satellite digital audio radio services specified by subsection (d)(2) during 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except where different transitional periods are provided in section 804(b), or such periods as the parties may agree.'';

(ii) in the third sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(iii) in the fourth sentence, by striking ''negotiation'';

(B) in subparagraph (B)—

(i) by amending the first sentence to read as follows: ''The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (3), be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), a transitional period provided in section 804(b), or such other period as the parties may agree.'';

(ii) in the second sentence, by striking ''copyright arbitration royalty panel'' and inserting ''Copyright Royalty Judges''; and

(iii) in the second sentence, by striking ''negotiated as provided'' and inserting ''described''; and

(C) by amending subparagraph (C) to read as follows:

''(C) The procedures under subparagraphs (A) and (B) also shall be initiated pursuant to a petition filed by any copyright owners of sound recordings, any preexisting subscription services, or any preexisting satellite digital audio radio services indicating that a new type of subscription digital audio transmission service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of transmission service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for subscription digital audio transmission services most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.'';

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by amending the first paragraph to read as follows: ''Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for subscription transmissions by eligible nonsubscription transmission services and transmissions by new subscription services specified by subsection (d)(2) during 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except where different transitional periods are provided in section 804(b), or such periods as the parties may agree.'';

(ii) in the third sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(iii) in the fourth sentence, by striking ''negotiation'';

(B) in subparagraph (B)—

(i) by amending the first sentence to read as follows: ''The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (3), be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), a transitional period provided in section 804(b), or such other period as the parties may agree.'';

(ii) by striking ''copyright arbitration royalty panel'' each subsequent place it appears and inserting ''Copyright Royalty Judges''; and

(iii) in the last sentence by striking ''negotiated as provided'' and inserting ''described in''; and

(C) by amending subparagraph (C) to read as follows:

''(C) The procedures under subparagraphs (A) and (B) shall also be initiated pursuant to a petition filed by any copyright owners of sound recordings or any eligible nonsubscription service or new subscription service indicating that a new type of eligible nonsubscription service or new subscription service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for preexisting subscription digital audio transmission services or preexisting satellite digital radio audio services, as the case may be, most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.'';

(3) in paragraph (3), by striking ''or decision by the Librarian of Congress'' and inserting '', decision by the Librarian of Congress, or determination by the Copyright Royalty Judges''; and

(4) in paragraph (4)—

(A) by striking ''Librarian of Congress'' each place it appears and inserting ''Copyright Royalty Judges''; and

(B) by adding after the first sentence ''The notice and recordkeeping rules in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004 shall remain in effect unless and until new regulations are promulgated by the Copyright Royalty Judges. If new regulations are promulgated under this subparagraph, the Copyright Royalty Judges shall take into account the substance and effect of the rules in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004 and shall, to the extent practicable, avoid significant disruption of the functions of any designated agent authorized to collect and distribute royalty fees.''.

(d) PHONORECORDS OF NONDRAMATIC MUSICAL WORKS.—Section 115(c)(3) is amended—

(1) in subparagraph (A)(ii), by striking ''(F)'' and inserting ''(E)'';

(2) in subparagraph (B)—

(A) by striking ''under this paragraph'' and inserting ''under this section'';

(B) by inserting ''on a nonexclusive basis'' after ''common agents''; and

(C) by striking ''subparagraphs (C) through (F)'' and inserting ''this subparagraph and subparagraphs (C) through (E)''; and

(3) in subparagraph (C)—

(A) by amending the first sentence to read as follows: ''Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for the activities specified by this section during periods beginning with the effective date of such rates and terms, but not earlier than January 1 of the second year following the year in which the petition requesting the proceeding is filed, and ending on the effective date of successor rates and terms, or such other period as the parties may agree.'';

(B) in the third sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(C) in the fourth sentence, by striking ''negotiation'';

(4) in subparagraph (D)—

(A) by amending the first sentence to read as follows: ''The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to subparagraph (E), be binding on all copyright owners of nondramatic musical works and persons entitled to obtain a compulsory license under subsection (a)(1) during the period specified in subparagraph (C), such other period as may be determined pursuant to subparagraphs (B) and (C), or such other period as the parties may agree.'';

(B) in the third sentence, by striking ''copyright arbitration royalty panel'' and inserting ''Copyright Royalty Judges''; and

(C) in the third sentence, by striking ''negotiated as provided in subparagraphs (B) and (C)'' and inserting ''described'';

(5) in subparagraph (E)—

(A) in clause (i)—

(i) in the first sentence, by striking ''Librarian of Congress'' and inserting ''Librarian of Congress, Copyright Royalty Judges, or a copyright arbitration royalty panel to the extent those determinations were accepted by the Librarian of Congress''; and

(ii) in the second sentence, by striking ''(C), (D) or (F) shall be given effect'' and inserting ''(C) or (D) shall be given effect as to digital phonorecord deliveries''; and

(B) in clause (ii)(I), by striking ''(C), (D) or (F)'' each place it appears and inserting ''(C) or (D)''; and

(6) by striking subparagraph (F) and redesignating subparagraphs (G) through (L) as subparagraphs (F) through (K), respectively.

(e) COIN-OPERATED PHONORECORD PLAYERS.—Section 116 is amended—

(1) in subsection (b), by amending paragraph (2) to read as follows:

''(2) CHAPTER 8 PROCEEDING.—Parties not subject to such a negotiation may have the terms and rates and the division of fees described in paragraph (1) determined in a proceeding in accordance with the provisions of chapter 8.''; and

(2) in subsection (c)—

(A) in the subsection heading, by striking ''COPYRIGHT ARBITRATION ROYALTY PANEL DETERMINATIONS'' and inserting ''DETERMINATIONS BY COPYRIGHT ROYALTY JUDGES''; and

(B) by striking ''a copyright arbitration royalty panel'' and inserting ''the Copyright Royalty Judges''.

(f) USE OF CERTAIN WORKS IN CONNECTION WITH NONCOMMERCIAL BROADCASTING.—Section 118 is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in the first sentence, by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(ii) by striking the second and third sentences;

(B) in paragraph (2), by striking ''Librarian of Congress:'' and all that follows through the end of the sentence and inserting ''Librarian of Congress, a copyright arbitration royalty panel, or the Copyright Royalty Judges, to the extent that they were accepted by the Librarian of Congress, if copies of such agreements are filed with the Copyright Royalty Judges within 30 days of execution in accordance with regulations that the Copyright Royalty Judges shall issue.''; and

(C) in paragraph (3)—

(i) in the second sentence—

(I) by striking ''copyright arbitration royalty panel'' and inserting ''Copyright Royalty Judges''; and

(II) by striking ''paragraph (2).'' and inserting ''paragraph (2) or (3).'';

(ii) in the last sentence, by striking '''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(iii) by striking ''(3) In'' and all that follows through the end of the first sentence and inserting the following:

''(3) Voluntary negotiation proceedings initiated pursuant to a petition filed under section 804(a) for the purpose of determining a schedule of terms and rates of royalty payments by public broadcasting entities to copyright owners in works specified by this subsection and the proportionate division of fees paid among various copyright owners shall cover the 5-year period beginning on January 1 of the second year following the year in which the petition is filed. The parties to each negotiation proceeding shall bear their own costs.

''(4) In the absence of license agreements negotiated under paragraph (2) or (3), the Copyright Royalty Judges shall, pursuant to chapter 8, conduct a proceeding to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Copyright Royalty Judges.'';

(2) by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f), respectively;

(3) in subsection (c), as so redesignated, in the matter preceding paragraph (1)—

(A) by striking ''(b)(2)'' and inserting ''(b)(2) or (3)'';

(B) by striking ''(b)(3)'' and inserting ''(b)(4)''; and

(C) by striking ''a copyright arbitration royalty panel under subsection (b)(3)'' and inserting ''the Copyright Royalty Judges under subsection (b)(3), to the extent that they were accepted by the Librarian of Congress'';

(4) in subsection (d), as so redesignated—

(A) by striking ''in the Copyright Office'' and inserting ''with the Copyright Royalty Judges''; and

(B) by striking ''Register of Copyrights shall prescribe'' and inserting ''Copyright Royalty Judges shall prescribe as provided in section 803(b)(6)''; and

(5) in subsection (f), as so redesignated, by striking ''(d)'' and inserting ''(c)''.

(g) SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—Section 119(b) is amended—

(1) in paragraph (3), by striking ''Librarian of Congress'' and inserting ''Copyright Royalty Judges''; and

(2) in paragraph (4)—

(A) in subparagraph (A), by striking ''Librarian of Congress'' each place it appears and inserting ''Copyright Royalty Judges''; and

(B) by amending subparagraphs (B) and (C) to read as follows:

''(B) DETERMINATION OF CONTROVERSY; DISTRIBUTIONS.—After the first day of August of each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents. If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

''(C) WITHHOLDING OF FEES DURING CONTROVERSY.—During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have the discretion to proceed to distribute any amounts that are not in controversy.''.

(h) DIGITAL AUDIO RECORDING DEVICES.—

(1) ROYALTY PAYMENTS.—Section 1004(a)(3) is amended by striking ''Librarian of Congress'' each place it appears and inserting ''Copyright Royalty Judges''.

(2) ENTITLEMENT TO ROYALTY PAYMENTS.—Section 1006(c) is amended by striking ''Librarian of Congress shall convene a copyright arbitration royalty panel which'' and inserting ''Copyright Royalty Judges''.

(3) PROCEDURES FOR DISTRIBUTING ROYALTY PAYMENTS.—Section 1007 is amended—

(A) in subsection (a), by amending paragraph (1) to read as follows:

''(1) FILING OF CLAIMS.—During the first 2 months of each calendar year, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Judges a claim for payments collected during the preceding year in such form and manner as the Copyright Royalty Judges shall prescribe by regulation.''; and

(B) by amending subsections (b) and (c) to read as follows:

''(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—After the period established for the filing of claims under subsection (a), in each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a). The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.

''(c) RESOLUTION OF DISPUTES.—If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.''.

(4) DETERMINATION OF CERTAIN DISPUTES.—(A) Section 1010 is amended to read as follows:

"§ 1010. Determination of certain disputes

''(a) SCOPE OF DETERMINATION.—Before the date of first distribution in the United States of a digital audio recording device or a digital audio interface device, any party manufacturing, importing, or distributing such device, and any interested copyright party may mutually agree to petition the Copyright Royalty Judges to determine whether such device is subject to section 1002, or the basis on which royalty payments for such device are to be made under section 1003.

''(b) INITIATION OF PROCEEDINGS.—The parties under subsection (a) shall file the petition with the Copyright Royalty Judges requesting the commencement of a proceeding. Within 2 weeks after receiving such a petition, the Chief Copyright Royalty Judge shall cause notice to be published in the Federal Register of the initiation of the proceeding.

''(c) STAY OF JUDICIAL PROCEEDINGS.—Any civil action brought under section 1009 against a party to a proceeding under this section shall, on application of one of the parties to the proceeding, be stayed until completion of the proceeding.

''(d) PROCEEDING.—The Copyright Royalty Judges shall conduct a proceeding with respect to the matter concerned, in accordance with such procedures as the Copyright Royalty Judges may adopt. The Copyright Royalty Judges shall act on the basis of a fully documented written record. Any party to the proceeding may submit relevant information and proposals to the Copyright Royalty Judges. The parties to the proceeding shall each bear their respective costs of participation.

''(e) JUDICIAL REVIEW.—Any determination of the Copyright Royalty Judges under subsection (d) may be appealed, by a party to the proceeding, in accordance with section 803(d) of this title. The pendency of an appeal under this subsection shall not stay the determination of the Copyright Royalty Judges. If the court modifies the determination of the Copyright Royalty Judges, the court shall have jurisdiction to enter its own decision in accordance with its final judgment. The court may further vacate the determination of the Copyright Royalty Judges and remand the case for proceedings as provided in this section.''.

(B) The item relating to section 1010 in the table of sections for chapter 10 is amended to read as follows:

''1010. Determination of certain disputes.''.

SEC. 6. EFFECTIVE DATE AND TRANSITION PROVISIONS.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect 6 months after the date of enactment of this Act, except that the Librarian of Congress shall appoint 1 or more interim Copyright Royalty Judges under section 802(d) of title 17, United States Code, as amended by this Act, within 90 days after such date of enactment to carry out the functions of the Copyright Royalty Judges under title 17, United States Code, to the extent that Copyright Royalty Judges provided for in section 801(a) of title 17, United States Code, as amended by this Act, have not been appointed before the end of that 90-day period.

(b) TRANSITION PROVISIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this Act shall not affect any proceedings commenced, petitions filed, or voluntary agreements entered into before the date of enactment of this Act under the provisions of title 17, United States Code, as amended by this Act, and pending on such date of enactment. Such proceedings shall continue, determinations made in such proceedings, and appeals taken therefrom, as if this Act had not been enacted, and shall continue in effect until modified under title 17, United States Code, as amended by this Act. Such petitions filed and voluntary agreements entered into shall remain in effect as if this Act had not been enacted. For purposes of this paragraph, the Librarian of Congress may determine whether a proceeding has commenced. The Librarian of Congress may terminate any proceeding commenced before the date of enactment of this Act pursuant to chapter 8 of title 17, United States Code, and any proceeding so terminated shall become null and void. In such cases, the Copyright Royalty Judges may initiate a new proceeding in accordance with regulations adopted pursuant to section 803(b)(6) of title 17, United States Code.

(2) CERTAIN ROYALTY RATES PROCEEDINGS.—Notwithstanding any other provision of law, proceedings to determine royalty rates pursuant to section 119(c) of title 17, United States Code, shall be conducted pursuant to the provisions of title 17, United States Code, and the rules and practices in effect under that chapter on the day before any provision of this Act takes effect.

(3) PENDING PROCEEDINGS.—Notwithstanding paragraph (1), any proceedings to establish or adjust rates and terms for the statutory licenses under section 114(f)(2) or 112(e) of title 17, United States Code, for a statutory period commencing on or after January 1, 2005, shall be terminated upon the date of enactment of this Act and shall be null and void. The rates and terms in effect under section 114(f)(2) or 112(e) of title 17, United States Code, on December 31, 2004, for new subscription services, eligible nonsubscription services, and services exempt under section 114(d)(1)(C)(iv) of such title, and the rates and terms published in the Federal Register under the authority of the Small Webcaster Settlement Act of 2002 (17 U.S.C. 114 note; Public Law 107–321) (including the amendments made by that Act) for the years 2003 through 2004, as well as any notice and recordkeeping provisions adopted pursuant thereto, shall remain in effect until the later of the first applicable effective date for successor terms and rates specified in section 804(b) (2) or (3)(A) of title 17, United States Code, or such later date as the parties may agree or the Copyright Royalty Judges may establish. For the period commencing January 1, 2005, an eligible small webcaster or a noncommercial webcaster, as defined in the regulations published by the Register of Copyrights pursuant to the Small Webcaster Settlement Act of 2002 (17 U.S.C. 114 note; Public Law 107–321) (including the amendments made by that Act), may elect to be subject to the rates and terms published in those regulations by complying with the procedures governing the election process set forth in those regulations not later than the first date on which the webcaster would be obligated to make a royalty payment for such period. Until successor terms and rates have been established for the period commencing January 1, 2006, licensees shall continue to make royalty payments at the rates and on the terms previously in effect, subject to retroactive adjustment when successor rates and terms for such services are established.

(4) INTERIM PROCEEDINGS.—Notwithstanding subsection (a), as soon as practicable after the date of enactment of this Act, the Copyright Royalty Judges or interim Copyright Royalty Judges shall publish the notice described in section 803(b)(1)(A) of title 17, United States Code, as amended by this Act, to initiate a proceeding to establish or adjust rates and terms for the statutory licenses under section 114(f)(2) or 112(e) of title 17, United States Code, for new subscription services and eligible nonsubscription services for the period commencing January 1, 2006. The Copyright Royalty Judges or Interim Copyright Royalty Judges are authorized to cause that proceeding to take place as provided in subsection (b) of section 803 of that title within the time periods set forth in that subsection. Notwithstanding section 803(c)(1) of that title, the Copyright Royalty Judges shall not be required to issue their determination in that proceeding before the expiration of the statutory rates and terms in effect on December 31, 2004.

(c) EXISTING APPROPRIATIONS.—Any funds made available in an appropriations Act to carry out chapter 8 of title 17, United States Code, shall be available to the extent necessary to carry out this section.

SA 3976. Ms. COLLINS (for Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. BOND, and Mr. REID)) proposed an amendment to the bill S. 1134, to reauthorize and improve the programs authorized by the Public Works and Economic Development Act of 1965; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Economic Development Administration Reauthorization Act of 2004''.

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

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS AND DECLARATIONS.

Section 2 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121) is amended to read as follows:

''SEC. 2. FINDINGS AND DECLARATIONS.

''(a) FINDINGS.—Congress finds that—

''(1) there continue to be areas of the United States experiencing chronic high unemployment, underemployment, outmigration, and low per capita incomes, as well as areas facing sudden and severe economic dislocations because of structural economic changes, changing trade patterns, certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality), and natural disasters;

''(2) economic growth in the States, cities, and rural areas of the United States is produced by expanding economic opportunities, expanding free enterprise through trade, developing and strengthening public infrastructure, and creating a climate for job creation and business development;

''(3) the goal of Federal economic development programs is to raise the standard of living for all citizens and increase the wealth and overall rate of growth of the economy by encouraging communities to develop a more competitive and diversified economic base by—

''(A) creating an environment that promotes economic activity by improving and expanding public infrastructure;

''(B) promoting job creation through increased innovation, productivity, and entrepreneurship; and

''(C) empowering local and regional communities experiencing chronic high unemployment and low per capita income to develop private sector business and attract increased private sector capital investment;

''(4) while economic development is an inherently local process, the Federal Government should work in partnership with public and private State, regional, tribal, and local organizations to maximize the impact of existing resources and enable regions, communities, and citizens to participate more fully in the American dream and national prosperity;

''(5) in order to avoid duplication of effort and achieve meaningful, long-lasting results, Federal, State, tribal, and local economic development activities should have a clear focus, improved coordination, a comprehensive approach, and simplified and consistent requirements; and

''(6) Federal economic development efforts will be more effective if the efforts are coordinated with, and build upon, the trade, workforce investment, transportation, and technology programs of the United States.

''(b) DECLARATIONS.—In order to promote a strong and growing economy throughout the United States, Congress declares that—

''(1) assistance under this Act should be made available to both rural- and urban-distressed communities;

''(2) local communities should work in partnership with neighboring communities, the States, Indian tribes, and the Federal Government to increase the capacity of the local communities to develop and implement comprehensive economic development strategies to alleviate economic distress and enhance competitiveness in the global economy;

''(3) whether suffering from long-term distress or a sudden dislocation, distressed communities should be encouraged to support entrepreneurship to take advantage of the development opportunities afforded by technological innovation and expanding newly opened global markets; and

''(4) assistance under this Act should be made available to promote the productive reuse of abandoned industrial facilities and the redevelopment of brownfields.''.

SEC. 102. DEFINITIONS.

(a) ELIGIBLE RECIPIENT.—Section 3(4)(A) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122(4)(A)) is amended—

(1) by striking clause (i) and redesignating clauses (ii) through (vii) as clauses (i) through (vi), respectively; and

(2) in clause (iv) (as redesignated by paragraph (1)) by inserting '', including a special purpose unit of a State or local government engaged in economic or infrastructure development activities,'' after ''State''.

(b) REGIONAL COMMISSIONS; UNIVERSITY CENTER.—Section 3 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122) is amended—

(1) by redesignating paragraphs (8), (9), and (10) as paragraphs (9), (10), and (11), respectively;

(2) by inserting after paragraph (7) the following:

''(8) REGIONAL COMMISSIONS.—The term 'Regional Commissions' means—

''(A) the Appalachian Regional Commission established under chapter 143 of title 40, United States Code;

''(B) the Delta Regional Authority established under subtitle F of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa et seq.);

''(C) the Denali Commission established under the Denali Commission Act of 1998 (42 U.S.C. 3121 note; 112 Stat. 2681–637 et seq.); and

''(D) the Northern Great Plains Regional Authority established under subtitle G of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb et seq.).''; and

(3) by adding at the end the following:

''(12) UNIVERSITY CENTER.—The term 'university center' means an institution of higher education or a consortium of institutions of higher education established as a University Center for Economic Development under section 207(a)(2)(D).''.

SEC. 103. ESTABLISHMENT OF ECONOMIC DEVELOPMENT PARTNERSHIPS.

Section 101 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131) is amended—

(1) in subsection (b), by striking ''and multi-State regional organizations'' and inserting ''multi-State regional organizations, and nonprofit organizations''; and

(2) in subsection (d)(1), by striking ''adjoining'' each place it appears.

SEC. 104. COORDINATION.

Section 103 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3132) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''The Secretary'';

(2) in subsection (a) (as designated by paragraph (1)), by inserting ''Indian tribes,'' after ''districts,''; and

(3) by adding at the end the following:

''(b) MEETINGS.—To carry out subsection (a), or for any other purpose relating to economic development activities, the Secretary may convene meetings with Federal agencies, State and local governments, economic development districts, Indian tribes, and other appropriate planning and development organizations.''.

TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

SEC. 201. GRANTS FOR PLANNING.

Section 203(d) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3143(d)) is amended—

(1) in paragraph (1), by inserting '', to the maximum extent practicable,'' after ''developed'' the second place it appears;

(2) by striking paragraph (3) and inserting the following:

''(3) COORDINATION.—Before providing assistance for a State plan under this section, the Secretary shall consider the extent to which the State will consider local and economic development district plans.''; and

(3) in paragraph (4)—

(A) by striking ''and'' at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by adding after subparagraph (C) the following:

''(D) assist in carrying out the workforce investment strategy of a State;

''(E) promote the use of technology in economic development, including access to high-speed telecommunications; and''.

SEC. 202. COST SHARING.

(a) FEDERAL SHARE.—Section 204 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144) is amended by striking subsection (a) and inserting the following:

''(a) FEDERAL SHARE.—Except as provided in subsection (c), the Federal share of the cost of any project carried out under this title shall not exceed—

''(1) 50 percent; plus

''(2) an additional percent that—

''(A) shall not exceed 30 percent; and

''(B) is based on the relative needs of the area in which the project will be located, as determined in accordance with regulations promulgated by the Secretary.''.

(b) NON-FEDERAL SHARE.—Section 204(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144(b)) is amended by inserting ''assumptions of debt,'' after ''equipment,''.

(c) INCREASE IN FEDERAL SHARE.—Section 204 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144) is amended by adding at the end the following:

''(c) INCREASE IN FEDERAL SHARE.—

''(1) INDIAN TRIBES.—In the case of a grant to an Indian tribe for a project under this title, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

''(2) CERTAIN STATES, POLITICAL SUBDIVISIONS, AND NONPROFIT ORGANIZATIONS.—In the case of a grant to a State, or a political subdivision of a State, that the Secretary determines has exhausted the effective taxing and borrowing capacity of the State or political subdivision, or in the case of a grant to a nonprofit organization that the Secretary determines has exhausted the effective borrowing capacity of the nonprofit organization, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

''(3) TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.—In the case of a grant provided under section 207, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project if the Secretary determines that the project funded by

the grant merits, and is not feasible without, such an increase.''.

SEC. 203. SUPPLEMENTARY GRANTS.

(a) IN GENERAL.—Section 205 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3145) is amended by striking subsection (b) and inserting the following:

''(b) SUPPLEMENTARY GRANTS.—Subject to subsection (c), in order to assist eligible recipients in taking advantage of designated Federal grant programs, on the application of an eligible recipient, the Secretary may make a supplementary grant for a project for which the recipient is eligible but for which the recipient cannot provide the required non-Federal share because of the economic situation of the recipient.''.

(b) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—Section 205(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3145(c)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

''(1) AMOUNT OF SUPPLEMENTARY GRANTS.—The share of the project cost supported by a supplementary grant under this section may not exceed the applicable Federal share under section 204.

''(2) FORM OF SUPPLEMENTARY GRANTS.—The Secretary shall make supplementary grants by—

''(A) the payment of funds made available under this Act to the heads of the Federal agencies responsible for carrying out the applicable Federal programs; or

''(B) the award of funds under this Act, which will be combined with funds transferred from other Federal agencies in projects administered by the Secretary.''; and

(2) by striking paragraph (4).

SEC. 204. REGULATIONS ON RELATIVE NEEDS AND ALLOCATIONS.

Section 206 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3146) is amended—

(1) in paragraph (1)(C), by striking ''and'' at the end;

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

(3) by adding at the end the following:

''(3)(A) rural and urban economically distressed areas are not harmed by the establishment or implementation by the Secretary of a private sector leveraging goal for a project under this title;

''(B) any private sector leveraging goal established by the Secretary does not prohibit or discourage grant applicants under this title from public works in, or economic development of, rural or urban economically distressed areas; and

''(C) the relevant Committees of Congress are notified prior to making any changes to any private sector leveraging goal; and

''(4) grants made under this title promote job creation and will have a high probability of meeting or exceeding applicable performance requirements established in connection with the grants.''.

SEC. 205. GRANTS FOR TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Section 207(a)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3147(a)(2)) is amended—

(1) by striking ''and'' at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (I); and

(3) by inserting after subparagraph (F) the following:

''(G) studies that evaluate the effectiveness of coordinating projects funded under this Act with projects funded under other Acts;

''(H) assessment, marketing, and establishment of business clusters; and''.

(b) COOPERATION REQUIREMENT.—Section 207(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3147(a)) is amended by striking paragraph (3) and inserting the following:

''(3) COOPERATION REQUIREMENT.—In the case of a project assisted under this section that is national or regional in scope, the Secretary may waive the provision in section 3(4)(A)(vi) requiring a nonprofit organization or association to act in cooperation with officials of a political subdivision of a State.''.

SEC. 206. PREVENTION OF UNFAIR COMPETITION.

(a) IN GENERAL.—Section 208 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3148) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 208.

SEC. 207. GRANTS FOR ECONOMIC ADJUSTMENT.

(a) ASSISTANCE TO MANUFACTURING COMMUNITIES.—Section 209(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)) is amended—

(1) in paragraph (3), by striking ''or'';

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

(3) by adding at the end the following:

''(5) the loss of manufacturing jobs, for reinvesting in and diversifying the economies of the communities.''.

(b) DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT; SPECIAL PROVISIONS RELATING TO REVOLVING LOAN FUND GRANTS.—Section 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149) is amended by striking subsection (d) and inserting the following:

''(d) SPECIAL PROVISIONS RELATING TO REVOLVING LOAN FUND GRANTS.—

''(1) IN GENERAL.—The Secretary shall promulgate regulations to maintain the proper operation and financial integrity of revolving loan funds established by recipients with assistance under this section.

''(2) EFFICIENT ADMINISTRATION.—The Secretary may—

''(A) at the request of a grantee, amend and consolidate grant agreements governing revolving loan funds to provide flexibility with respect to lending areas and borrower criteria;

''(B) assign or transfer assets of a revolving loan fund to third party for the purpose of liquidation, and the third party may retain assets of the fund to defray costs related to liquidation; and

''(C) take such actions as are appropriate to enable revolving loan fund operators to sell or securitize loans (except that the actions may not include issuance of a Federal guaranty by the Secretary).

''(3) TREATMENT OF ACTIONS.—An action taken by the Secretary under this subsection with respect to a revolving loan fund shall not constitute a new obligation if all grant funds associated with the original grant award have been disbursed to the recipient.

''(4) PRESERVATION OF SECURITIES LAWS.—

''(A) NOT TREATED AS EXEMPTED SECURITIES.—No securities issued pursuant to paragraph (2)(C) shall be treated as exempted securities for purposes of the Securities Act of 1933 (15 U.S.C. 77a et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless exempted by rule or regulation of the Securities and Exchange Commission.

''(B) PRESERVATION.—Except as provided in subparagraph (A), no provision of this subsection or any regulation promulgated by the Secretary under this subsection supersedes or otherwise affects the application of the securities laws (as the term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))) or the rules, regulations, or orders of the Securities and Exchange Commission or a self-regulatory organization under that Commission.''.

SEC. 208. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

Section 211 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151) is amended to read as follows:

''SEC. 211. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

''(a) IN GENERAL.—In the case of a grant to a recipient for a construction project under section 201 or 209, if the Secretary determines, before closeout of the project, that the cost of the project, based on the designs and specifications that were the basis of the grant, has decreased because of decreases in costs, the Secretary may approve, without further appropriation, the use of the excess funds (or a portion of the excess funds) by the recipient—

''(1) to increase the Federal share of the cost of a project under this title to the maximum percentage allowable under section 204; or

''(2) to improve the project.

''(b) OTHER USES OF EXCESS FUNDS.—Any amount of excess funds remaining after application of subsection (a) may be used by the Secretary for providing assistance under this Act.

''(c) TRANSFERRED FUNDS.—In the case of excess funds described in subsection (a) in projects using funds transferred from other Federal agencies pursuant to section 604, the Secretary shall—

''(1) use the funds in accordance with subsection (a), with the approval of the originating agency; or

''(2) return the funds to the originating agency.

''(d) REVIEW BY COMPTROLLER GENERAL.—

''(1) REVIEW.—The Comptroller General of the United States shall regularly review the implementation of this section.

''(2) REPORT.—Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller General on implementation of this subsection.''.

SEC. 209. SPECIAL IMPACT AREAS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) is amended by adding at the end the following:

''SEC. 214. SPECIAL IMPACT AREAS.

''(a) IN GENERAL.—On the application of an eligible recipient that is determined by the Secretary to be unable to comply with the requirements of section 302, the Secretary may waive, in whole or in part, the requirements of section 302 and designate the area represented by the recipient as a special impact area.

''(b) CONDITIONS.—The Secretary may make a designation under subsection (a) only after determining that—

''(1) the project will fulfill a pressing need of the area; and

''(2) the project will—

''(A) be useful in alleviating or preventing conditions of excessive unemployment or underemployment; or

''(B) assist in providing useful employment opportunities for the unemployed or underemployed residents in the area.

''(c) NOTIFICATION.—At the time of the designation under subsection (a), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice of the designation, including a justification for the designation.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 213 the following:

''Sec. 214. Special impact areas.''.

SEC. 210. PERFORMANCE AWARDS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 209) is amended by adding at the end the following:

''SEC. 215. PERFORMANCE AWARDS.

''(a) IN GENERAL.—The Secretary may make a performance award in connection with a grant made, on or after the date of enactment of this section, to an eligible recipient for a project under section 201 or 209.

''(b) PERFORMANCE MEASURES.—

''(1) REGULATIONS.—The Secretary shall promulgate regulations to establish performance measures for making performance awards under subsection (a).

''(2) CONSIDERATIONS.—In promulgating regulations under paragraph (1), the Secretary shall consider the inclusion of performance measures that assess—

''(A) whether the recipient meets or exceeds scheduling goals;

''(B) whether the recipient meets or exceeds job creation goals;

''(C) amounts of private sector capital investments leveraged; and

''(D) such other factors as the Secretary determines to be appropriate.

''(c) AMOUNT OF AWARDS.—

''(1) IN GENERAL.—The Secretary shall base the amount of a performance award made under subsection (a) in connection with a grant on the extent to which a recipient meets or exceeds performance measures established in connection with the grant.

''(2) MAXIMUM AMOUNT.—The amount of a performance award may not exceed 10 percent of the amount of the grant.

''(d) USE OF AWARDS.—A recipient of a performance award under subsection (a) may use the award for any eligible purpose under this Act, in accordance with section 602 and such regulations as the Secretary may promulgate.

''(e) FEDERAL SHARE.—Notwithstanding section 204, the funds of a performance award may be used to pay up to 100 percent of the cost of an eligible project or activity.

''(f) TREATMENT IN MEETING NON-FEDERAL SHARE REQUIREMENTS.—For the purposes of meeting the non-Federal share requirements under this, or any other, Act the funds of a performance award shall be treated as funds from a non-Federal source.

''(g) TERMS AND CONDITIONS.—In making performance awards under subsection (a), the Secretary shall establish such terms and conditions as the Secretary considers to be appropriate.

''(h) FUNDING.—The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.

''(i) REPORTING REQUIREMENT.—The Secretary shall include information regarding performance awards made under this section in the annual report required under section 603.

''(j) REVIEW BY COMPTROLLER GENERAL.—

''(1) REVIEW.—The Comptroller General shall regularly review the implementation of this section.

''(2) REPORT.—Not later than 1 year after the date of enactment of this section, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller on implementation of this subsection.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 214 the following:

''Sec. 215. Performance awards.''.

SEC. 211. PLANNING PERFORMANCE AWARDS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 210) is amended by adding at the end the following:

''SEC. 216. PLANNING PERFORMANCE AWARDS.

''(a) IN GENERAL.—The Secretary may make a planning performance award in connection with a grant made, on or after the date of enactment of this section, to an eligible recipient for a project under this title located in an economic development district.

''(b) ELIGIBILITY.—The Secretary may make a planning performance award to an eligible recipient under subsection (a) in connection with a grant for a project if the Secretary determines before closeout of the project that—

''(1) the recipient actively participated in the economic development activities of the economic development district in which the project is located;

''(2) the project is consistent with the comprehensive economic development strategy of the district;

''(3) the recipient worked with Federal, State, and local economic development entities throughout the development of the project; and

''(4) the project was completed in accordance with the comprehensive economic development strategy of the district.

''(c) MAXIMUM AMOUNT.—The amount of a planning performance award made under subsection (a) in connection with a grant may not exceed 5 percent of the amount of the grant.

''(d) USE OF AWARDS.—A recipient of a planning performance award under subsection (a) shall use the award to increase the Federal share of the cost of a project under this title.

''(e) FEDERAL SHARE.—Notwithstanding section 204, the funds of a planning performance award may be used to pay up to 100 percent of the cost of a project under this title.

''(f) FUNDING.—The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 215 the following:

''Sec. 216. Planning performance awards.''.

SEC. 212. DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 211) is amended by adding at the end the following:

''SEC. 217. DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.

''(a) IN GENERAL.—Subject to subsection (b), a recipient of a grant under section 201, 203, or 207 may directly expend the grant funds or may redistribute the funds in the form of a subgrant to other eligible recipients to fund required components of the scope of work approved for the project.

''(b) LIMITATION.—A recipient may not redistribute grant funds received under section 201 or 203 to a for-profit entity.

''(c) ECONOMIC ADJUSTMENT.—Subject to subsection (d), a recipient of a grant under section 209 may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

''(d) LIMITATION.—Under subsection (c), a recipient may not provide any grant to a private for-profit entity.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 216 the following:

''Sec. 217. Direct expenditure or redistribution by recipient.''.

SEC. 213. BRIGHTFIELDS DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 212) is amended by adding at the end the following:

''SEC. 218. BRIGHTFIELDS DEMONSTRATION PROGRAM.

''(a) DEFINITION OF BRIGHTFIELD SITE.—In this section, the term 'brightfield site' means a brownfield site that is redeveloped through the incorporation of 1 or more solar energy technologies.

''(b) DEMONSTRATION PROGRAM.—On the application of an eligible recipient, the Secretary may make a grant for a project for the development of a brightfield site if the Secretary determines that the project will—

''(1) use 1 or more solar energy technologies to develop abandoned or contaminated sites for commercial use; and

''(2) improve the commercial and economic opportunities in the area in which the project is located.

''(c) SAVINGS CLAUSE.—To the extent that any portion of a grant awarded under subsection (b) involves remediation, the remediation shall be subject to section 612.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2004 through 2008, to remain available until expended.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 217 (as added by section 212(b)) the following:

''Sec. 218. Brightfields demonstration program.''.

TITLE III—COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

SEC. 301. ELIGIBILITY OF AREAS.

Section 301(c)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(c)(1)) is amended by inserting after ''most recent Federal data available'' the following: ''(including data available from the Bureau of Economic Analysis, the Bureau of Labor Statistics, the Census Bureau, the Bureau of Indian Affairs, or any other Federal source determined by the Secretary to be appropriate)''.

SEC. 302. COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.

(a) IN GENERAL.—Section 302(a)(3)(A) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162(a)(3)(A)) is amended by inserting ''maximizes effective development and use of the workforce consistent with any applicable State or local workforce investment strategy, promotes the use of technology in economic development (including access to high-speed telecommunications),'' after ''access,''.

(b) APPROVAL OF OTHER PLAN.—Section 302(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162(c)) is amended—

(1) by striking ''The Secretary'' and inserting the following:

''(1) IN GENERAL.—The Secretary''; and

(2) by adding at the end the following:

''(2) EXISTING STRATEGY.—To the maximum extent practicable, a plan submitted under this paragraph shall be consistent and coordinated with any existing comprehensive economic development strategy for the area.''.

TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS

SEC. 401. INCENTIVES.

(a) IN GENERAL.—Section 403 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3173) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 403.

SEC. 402. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO REGIONAL COMMISSIONS.

(a) IN GENERAL.—Section 404 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3174) is amended to read as follows:

''SEC. 404. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO REGIONAL COMMISSIONS.

''If any part of an economic development district is in a region covered by 1 or more of the Regional Commissions, the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the affected Regional Commission.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 404 and inserting the following:

''Sec. 404. Provision of comprehensive economic development strategies to Regional Commissions.''.

TITLE V—ADMINISTRATION

SEC. 501. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE.

Section 502 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3192) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) maintain a central information clearinghouse on the Internet with—

''(A) information on economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal Government;

''(B) links to State economic development organizations; and

''(C) links to other appropriate economic development resources;'';

(2) by striking paragraph (2) and inserting the following:

''(2) assist potential and actual applicants for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal and State laws in locating and applying for the assistance;'';

(3) by striking the period at the end of paragraph (3) and inserting ''; and''; and

(4) by adding at the end the following:

''(4) obtain appropriate information from other Federal agencies needed to carry out the duties under this Act.''.

SEC. 502. BUSINESSES DESIRING FEDERAL CONTRACTS.

(a) IN GENERAL.—Section 505 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3195) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 505.

SEC. 503. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.

(a) IN GENERAL.—Section 506(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3196(c)) is amended by striking ''after the effective date of the Economic Development Administration Reform Act of 1998''.

(b) EVALUATION CRITERIA.—Section 506(d)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3196(d)(2)) is amended by inserting ''program performance,'' after ''applied research,''.

SEC. 504. CONFORMING AMENDMENTS.

Section 602 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3212) is amended—

(1) in the first sentence, by striking ''in accordance with'' and all that follows before the period at the end and inserting ''in accordance with subchapter IV of chapter 31 of title 40, United States Code''; and

(2) in the third sentence, by striking ''section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)'' and inserting ''section 3145 of title 40, United States Code''.

TITLE VI—MISCELLANEOUS

SEC. 601. ANNUAL REPORT TO CONGRESS.

Section 603 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3213) is amended—

(1) by striking ''Not later'' and inserting the following:

''(a) IN GENERAL.—Not later''; and

(2) by adding at the end the following:

''(b) INCLUSIONS.—Each report required under subsection (a) shall—

''(1) include a list of all grant recipients by State, including the projected private sector dollar to Federal dollar investment ratio for each grant recipient;

''(2) include a discussion of any private sector leveraging goal with respect to grants awarded to—

''(A) rural and urban economically distressed areas; and

''(B) highly distressed areas; and

''(3) after the completion of a project, include the realized private sector dollar to Federal dollar investment ratio for the project.''.

SEC. 602. RELATIONSHIP TO ASSISTANCE UNDER OTHER LAW.

Section 609 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3219) is amended—

(1) by striking subsection (a); and

(2) by striking ''(b) ASSISTANCE UNDER OTHER ACTS.—''.

SEC. 603. BROWNFIELDS REDEVELOPMENT REPORT.

(a) IN GENERAL.—Title VI of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171 et seq.) is amended by adding at the end the following:

''SEC. 611. BROWNFIELDS REDEVELOPMENT REPORT.

''(a) DEFINITION OF BROWNFIELD SITE.—In this section, the term 'brownfield site' has the meaning given the term in section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(39)).

''(b) REPORT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Comptroller General shall prepare a report that evaluates the grants made by the Economic Development Administration for the economic development of brownfield sites.

''(2) CONTENTS.—The report shall—

''(A) identify each project conducted during the previous 10-year period in which grant funds have been used for brownfield sites redevelopment activities; and

''(B) include for each project a description of —

''(i) the type of economic development activities conducted;

''(ii) if remediation activities were conducted—

''(I) the type of remediation activities; and

''(II) the amount of grant money used for those activities in dollars and as a percentage of the total grant award;

''(iii) the economic development and environmental standards applied, if applicable;

''(iv) the economic development impact of the project;

''(v) the role of Federal, State, or local environmental agencies, if any; and

''(vi) public participation in the project.

''(3) SUBMISSION OF REPORT.—The Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of the report.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 610 the following:

''Sec. 611. Brownfields redevelopment report.''.

SEC. 604. SAVINGS CLAUSE.

(a) IN GENERAL.—Title VI of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171 et seq.) (as amended by section 603(a)) is amended by adding at the end the following:

''SEC. 612. SAVINGS CLAUSE.

''To the extent that any portion of grants made under this Act are used for an economic development project that involves remediation, the remediation shall be conducted in compliance with all applicable Federal, State, and local laws and standards.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 611 (as added by section 603(b)) the following:

''Sec. 612. Savings clause.''.

SEC. 605. SENSE OF CONGRESS REGARDING ECONOMIC DEVELOPMENT REPRESENTATIVES.

(a) FINDINGS.—Congress finds that—

(1) planning and coordination among Federal agencies, State and local governments, Indian tribes, and economic development districts is vital to the success of an economic development program;

(2) economic development representatives of the Economic Development Administration provide distressed communities with the technical assistance necessary to foster this planning and coordination; and

(3) in the 5 years preceding the date of enactment of this Act, the number of economic development representatives has declined by almost 25 percent.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary should maintain a sufficient number of economic development representatives to ensure that the Economic Development Administration is able to provide effective assistance to distressed

communities and foster economic growth and development among the States.

TITLE VII—FUNDING

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Section 701 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231) is amended to read as follows:

''SEC. 701. GENERAL AUTHORIZATION OF APPROPRIATIONS.

''(a) ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS.—There are authorized to be appropriated for economic development assistance programs to carry out this Act, to remain available until expended—

''(1) $400,000,000 for fiscal year 2004;

''(2) $425,000,000 for fiscal year 2005;

''(3) $450,000,000 for fiscal year 2006;

''(4) $475,000,000 for fiscal year 2007; and

''(5) $500,000,000 for fiscal year 2008.''

''(b) SALARIES AND EXPENSES.—There are authorized to be appropriated for salaries and expenses of administering this Act, to remain available until expended—

''(1) $33,377,000 for fiscal year 2004; and

''(2) such sums as are necessary for each fiscal year thereafter.''.

SEC. 702. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Title VII of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231 et seq.) is amended by adding at the end the following:

''SEC. 704. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

''Of the amounts made available under section 701 for each fiscal year, not less than $27,000,000 shall be made available for grants provided under section 203.''.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 703 the following:

''Sec. 704. Funding for grants for planning and grants for administrative expenses''.

SA 3977. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 4, beginning on line 10, strike ''information gathered, and activities'' and inserting ''foreign intelligence gathered, and information gathering and other activities''.

On page 4, line 16, insert before the period the following: '', but does not include personnel, physical, document, or communications security programs''.

On page 23, line 8, strike the period and insert ''as it pertains to those programs, projects, and activities within the National Intelligence Program''.

On page 24, line 10, insert ''transactional deposit'' after ''establish''.

On page 181, line 9, insert ''or involving intelligence acquired through clandestine means'' before the period.

SA 3978. Ms. COLLINS (for Mr. ENSIGN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: ''All immigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(2) NONIMMIGRANT VISAS.—Subsection (d) of such section is amended by adding at the end the following: ''All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.''.

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: ''As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.''.

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) REQUIREMENT FOR SPECIALIST.—

(A) IN GENERAL.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify the diplomatic and consular posts at which visas are issued that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall assign or designate at each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

(B) EXCEPTIONS.—The Secretary of State is not required to assign or designate a specialist as described in subparagraph (A) at a diplomatic and consular post if an employee of the Department of Homeland Security is assigned on a full-time basis to such post under the authority in section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236).

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were made available during the preceding fiscal year. Of the additional border patrol agents, in each fiscal year not less than 20 percent of such agents shall be assigned to duty stations along the northern border of the United States.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were made available during the preceding fiscal year.

SA 3979. Ms. COLLINS (for Mr. KYL) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following new title:

TITLE IV—VISA REQUIREMENTS

SEC. 401. IN PERSON INTERVIEWS OF VISA APPLICANTS.

(a) REQUIREMENT FOR INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

''(h) Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for a nonimmigrant visa—

''(1) who is at least 12 years of age and not more than 65 years of age to submit to an in person interview with a consular officer unless the requirement for such interview is waived—

''(A) by a consular official and such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G) or is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof;

''(B) by a consular official and such alien is applying for a visa—

''(i) not more than 12 months after the date on which the alien's prior visa expired;

''(ii) for the classification under section 101(a)(15) for which such prior visa was issued;

''(iii) from the consular post located in the country in which the alien is a national; and

''(iv) the consular officer has no indication that the alien has not complied with the immigration laws and regulations of the United States; or

''(C) by the Secretary of State if the Secretary determines that such waiver is—

''(i) in the national interest of the United States; or

''(ii) necessary as a result of unusual circumstances; and

''(2) notwithstanding paragraph (1), to submit to an in person interview with a consular officer if such alien—

''(A) is not a national of the country in which the alien is applying for a visa;

''(B) was previously refused a visa, unless such refusal was overcome or a waiver of ineligibility has been obtained;

''(C) is listed in the Consular Lookout and Support System (or successor system at the Department of State);

''(D) may not obtain a visa until a security advisory opinion or other Department of State clearance is issued unless such alien is—

''(i) within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G); and

''(ii) not a national of a country that is officially designated by the Secretary of State as a state sponsor of terrorism; or

''(E) is identified as a member of a group or sector that the Secretary of State determines—

''(i) poses a substantial risk of submitting inaccurate information in order to obtain a visa;

''(ii) has historically had visa applications denied at a rate that is higher than the average rate of such denials; or

''(iii) poses a security threat to the United States.''.

SEC. 402. VISA APPLICATION REQUIREMENTS.

Section 222(c) of the Immigration and Nationality Act (8 U.S.C. 1202(c)) is amended by inserting ''The alien shall provide complete and accurate information in response to any request for information contained in the application.'' after the second sentence.

SEC. 403. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect 90 days after date of the enactment of this Act.

SA 3980. Mr. LIEBERMAN (for Mr. SCHUMER) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. REGIONAL MODEL STRATEGIC PLAN PILOT PROJECTS.

(a) PILOT PROJECTS.—Consistent with sections 302 and 430 of the Homeland Security Act of 2002 (6 U.S.C. 182, 238), not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Executive Director of the Office of State and Local Government Coordination and Preparedness and the Undersecretary for Science and Technology, shall establish not fewer than 2 pilot projects in high threat urban areas or regions that are likely to implement a national model strategic plan.

(b) PURPOSES.—The purposes of the pilot projects required by this section shall be to develop a regional strategic plan to foster interagency communication in the area in which it is established and coordinate the gathering of all Federal, State, and local first responders in that area, consistent with the national strategic plan developed by the Department of Homeland Security.

(c) SELECTION CRITERIA.—In selecting urban areas for the location of pilot projects under this section, the Secretary shall consider—

(1) the level of threat risk to the area, as determined by the Department of Homeland Security;

(2) the number of Federal, State, and local law enforcement agencies located in the area;

(3) the number of potential victims from a large scale terrorist attack in the area; and

(4) such other criteria reflecting a community's risk and vulnerability as the Secretary determines is appropriate.

(d) INTERAGENCY ASSISTANCE.—The Secretary of Defense shall provide assistance to the Secretary of Homeland Security, as necessary for the development of the pilot projects required by this section, including examining relevant standards, equipment, and protocols in order to improve interagency communication among first responders.

(e) REPORTS TO CONGRESS.—The Secretary of Homeland Security shall submit to Congress—

(1) an interim report regarding the progress of the interagency communications pilot projects required by this section 6 months after the date of enactment of this Act; and

(2) a final report 18 months after that date of enactment.

(f) FUNDING.—There are authorized to be made available to the Secretary of Homeland Security, such sums as may be necessary to carry out this section.

SA 3981. Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) proposed an amendment to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

Strike all after the resolving clause and insert the following:

SEC. 100. PURPOSE.

It is the purpose of titles I through V of this resolution to improve the effectiveness of the Senate Select Committee on Intelligence, especially with regard to its oversight of the Intelligence Community of the United States Government, and to improve the Senate's oversight of homeland security.

TITLE I—HOMELAND SECURITY OVERSIGHT REFORM

SEC. 101. HOMELAND SECURITY.

(a) COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS.—The Committee on Governmental Affairs is renamed as the Committee on Homeland Security and Governmental Affairs.

(b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

(1) Department of Homeland Security, except matters relating to the Coast Guard, the Transportation Security Administration, the Federal Law Enforcement Training Center, and the revenue functions of the Customs Service.

(2) Archives of the United States.

(3) Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

(4) Census and collection of statistics, including economic and social statistics.

(5) Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.

(6) Federal Civil Service.

(7) Government information.

(8) Intergovernmental relations.

(9) Municipal affairs of the District of Columbia, except appropriations therefor.

(10) Organization and management of United States nuclear export policy.

(11) Organization and reorganization of the executive branch of the Government.

(12) Postal Service.

(13) Status of officers and employees of the United States, including their classification, compensation, and benefits.

(c) ADDITIONAL DUTIES.—The committee shall have the duty of—

(1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(2) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(4) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(d) JURISDICTION OF SENATE COMMITTEES.—The jurisdiction of the Committee on Homeland Security and Governmental Affairs provided in subsection (b) shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate.

TITLE II—INTELLIGENCE OVERSIGHT REFORM

SEC. 201. INTELLIGENCE OVERSIGHT.

(a) COMMITTEE ON ARMED SERVICES MEMBERSHIP.—Section 2(a)(3) of Senate Resolution 400, agreed to May 19, 1976 (94th Congress) (referred to in this section as ''S. Res. 400'') is amended by—

(1) inserting ''(A)'' after ''(3)''; and

(2) inserting at the end the following:

''(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.''.

(b) NUMBER OF MEMBERS.—Section 2(a) of S. Res. 400 is amended—

(1) in paragraph (1), by inserting ''not to exceed'' before ''fifteen members'';

(2) in paragraph (1)(E), by inserting ''not to exceed'' before ''seven''; and

(3) in paragraph (2), by striking the second sentence and inserting ''Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin.''.

(c) ELIMINATION OF TERM LIMITS.—Section 2 of Senate Resolution 400, 94th Congress, agreed to May 19, 1976, is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(d) APPOINTMENT OF CHAIRMAN AND RANKING MEMBER.—Section 2(b) of S. Res. 400, as redesignated by subsection (c) of this section, is amended by striking the first sentence and inserting the following: ''At the beginning of each Congress, the Majority Leader of the Senate shall select a chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee.''.

(e) SUBCOMMITTEES.—Section 2 of S. Res. 400, as amended by subsections (a) through (d), is amended by adding at the end the following:

''(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman and Vice Chairman of the select Committee, respectively.''.

(f) REPORTS.—Section 4(a) of S. Res. 400 is amended by inserting '', but not less than quarterly,'' after ''periodic''.

(g) STAFF.—Section 15 of S. Res. 400 is amended to read as follows:

''SEC. 15. (a) The select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member's designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

''(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces, and shall have

full access to select Committee staff, information, records, and databases.

''(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee clearance requirements for employment by the select Committee.''.

(h) NOMINEES.—S. Res. 400 is amended by adding at the end the following:

''SEC. 17. (a) The select Committee shall have final responsibility for reviewing, holding hearings, and voting on civilian persons nominated by the President to fill a position within the intelligence community that requires the advice and consent of the Senate.

''(b) Other committees with jurisdiction over the nominees' executive branch department may hold hearings and interviews with that person.''.

TITLE III—COMMITTEE STATUS

SEC. 301. COMMITTEE STATUS.

(a) HOMELAND SECURITY.—The Committee on Homeland Security and Governmental Affairs shall be treated as the Committee on Governmental Affairs listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

(b) INTELLIGENCE.—The Select Committee on Intelligence shall be treated as a committee listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

TITLE IV—INTELLIGENCE-RELATED SUBCOMMITTEES

SEC. 401. SUBCOMMITTEE RELATED TO INTELLIGENCE OVERSIGHT.

(a) ESTABLISHMENT.—There is established in the Select Committee on Intelligence a Subcommittee on Oversight which shall be in addition to any other subcommittee established by the select Committee.

(b) RESPONSIBILITY.—The Subcommittee on Oversight shall be responsible for ongoing oversight of intelligence activities.

SEC. 402. SUBCOMMITTEE RELATED TO INTELLIGENCE APPROPRIATIONS.

(a) ESTABLISHMENT.—There is established in the Committee on Appropriations a Subcommittee on Intelligence. The Subcommittee on Military Construction shall be combined with the Subcommittee on Defense into 1 subcommittee.

(b) JURISDICTION.—The Subcommittee on Intelligence of the Committee on Appropriations shall have jurisdiction over funding for intelligence matters.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This resolution shall take effect on the convening of the 109th Congress.

SA 3982. Mr. FRIST (for Mr. HATCH (for himself and Mr. BIDEN)) proposed an amendment to the bill S. 2195, to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors; as follows:

In section 4(c) in the matter proposed to be inserted, strike ''primarily''.

SA 3983. Mr. MCCONNELL (for Mr. MCCAIN (for himself and Mr. NELSON of Florida)) proposed an amendment to the bill H.R. 2608, to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—EARTHQUAKE HAZARD REDUCTION

SEC. 101. SHORT TITLE.

This title may be cited as the ''National Earthquake Hazards Reduction Program Reauthorization Act of 2004''.

SEC. 102. DEFINITIONS.

Section 4 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.) is amended by adding at the end the following new paragraphs:

''(8) The term 'Interagency Coordinating Committee' means the Interagency Coordinating Committee on Earthquake Hazards Reduction established under section 5(a).

''(9) The term 'Advisory Committee' means the Advisory Committee established under section 5(a)(5).''.

SEC. 103. NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM.

Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)) is amended—

(1) by amending subsection (a) to read as follows:

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established the National Earthquake Hazards Reduction Program.

''(2) PROGRAM ACTIVITIES.—The activities of the Program shall be designed to—

''(A) develop effective measures for earthquake hazards reduction;

''(B) promote the adoption of earthquake hazards reduction measures by Federal, State, and local governments, national standards and model code organizations, architects and engineers, building owners, and others with a role in planning and constructing buildings, structures, and lifelines through—

''(i) grants, contracts, cooperative agreements, and technical assistance;

''(ii) development of standards, guidelines, and voluntary consensus codes for earthquake hazards reduction for buildings, structures, and lifelines;

''(iii) development and maintenance of a repository of information, including technical data, on seismic risk and hazards reduction; and

''(C) improve the understanding of earthquakes and their effects on communities, buildings, structures, and lifelines, through interdisciplinary research that involves engineering, natural sciences, and social, economic, and decisions sciences; and

''(D) develop, operate, and maintain an Advanced National Seismic Research and Monitoring System established under section 13 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7707), the George E. Brown, Jr. Network for Earthquake Engineering Simulation established under section 14 of that Act (42 U.S.C. 7708), and the Global Seismographic Network.

''(3) INTERAGENCY COORDINATING COMMITTEE ON EARTHQUAKE HAZARDS REDUCTION.—

''(A) IN GENERAL.—There is established an Interagency Coordinating Committee on Earthquake Hazards Reduction chaired by the Director of the National Institute of Standards and Technology (referred to in this subsection as the 'Director').

''(B) MEMBERSHIP.—The committee shall be composed of the directors of—

''(i) the Federal Emergency Management Agency;

''(ii) the United States Geological Survey;

''(iii) the National Science Foundation;

''(iv) the Office of Science and Technology Policy; and

''(v) the Office of Management and Budget.

''(C) MEETINGS.—The Committee shall meet not less than 3 times a year at the call of the Director.

''(D) PURPOSE AND DUTIES.—The Interagency Coordinating Committee shall oversee the planning, management, and coordination of the Program. The Interagency Coordinating Committee shall—

''(i) develop, not later than 6 months after the date of enactment of the National Earthquake Hazards Reduction Program Reauthorization Act of 2004 and update periodically—

''(I) a strategic plan that establishes goals and priorities for the Program activities described under subsection (a)(2); and

''(II) a detailed management plan to implement such strategic plan; and

''(ii) develop a coordinated interagency budget for the Program that will ensure appropriate balance among the Program activities described under subsection (a)(2), and, in accordance with the plans developed under clause (i), submit such budget to the Director of the Office of Management and Budget at the time designated by that office for agencies to submit annual budgets.

''(4) ANNUAL REPORT.—The Interagency Coordinating Committee shall transmit, at the time of the President's budget request to Congress, an annual report to the Committee on Science and the Committee on Resources of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate. Such report shall include—

''(A) the Program budget for the current fiscal year for each agency that participates in the Program, and for each major goal established for the Program activities under subparagraph (3)(A);

''(B) the proposed Program budget for the next fiscal year for each agency that participates in the Program, and for each major goal established for the Program activities under subparagraph (3)(A);

''(C) a description of the activities and results of the Program during the previous year, including an assessment of the effectiveness of the Program in furthering the goals established in the strategic plan under (3)(A);

''(D) a description of the extent to which the Program has incorporated the recommendations of the Advisory Committee;

''(E) a description of activities, including budgets for the current fiscal year and proposed budgets for the next fiscal year, that are carried out by Program agencies and contribute to the Program, but are not included in the Program; and

''(F) a description of the activities, including budgets for the current fiscal year and proposed budgets for the following fiscal year, related to the grant program carried out under subsection (b)(2)(A)(i).

''(5) ADVISORY COMMITTEE.—

''(A) IN GENERAL.—The Director shall establish an Advisory Committee on Earthquake Hazards Reduction of at least 11 members, none of whom may be an employee (as defined in subparagraphs (A) through (F) of section 7342(a)(1) of title 5, United States Code, including representatives of research and academic institutions, industry standards development organizations, State and local government, and financial communities who are qualified to provide advice on earthquake hazards reduction and represent all related scientific, architectural, and engineering disciplines. The recommendations of the Advisory Committee shall be considered by Federal agencies in implementing the Program.

''(B) ASSESSMENT.—The Advisory Committee shall assess—

''(i) trends and developments in the science and engineering of earthquake hazards reduction;

''(ii) effectiveness of the Program in carrying out the activities under (a)(2);

''(iii) the need to revise the Program; and

''(iv) the management, coordination, implementation, and activities of the Program.

''(C) REPORT.—Not later than 1 year after the date of enactment of the National Earthquake Hazards Reduction Program Reauthorization Act of 2004 and at least once every 2 years thereafter, the Advisory Committee shall report to the Director on its findings of the assessment carried out under subparagraph (B) and its recommendations for ways to improve the Program. In developing recommendations, the Committee shall consider the recommendations of the United States Geological Survey Scientific Earthquake Studies Advisory Committee.

''(D) FEDERAL ADVISORY COMMITTEE ACT APPLICATION.—Section 14 of the Federal Advisory Committee Act (5 App. U.S.C. 14) shall not apply to the Advisory Committee.'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''Federal Emergency Management Agency'' and all that follows through ''of the Agency'' and inserting ''National Institute of Standards and Technology shall have the primary responsibility for planning and coordinating the Program. In carrying out this paragraph, the Director of the Institute'';

(ii) by striking subparagraphs (B) and (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively;

(iii) by inserting after subparagraph (A) the following:

''(B) support the development of performance-based seismic engineering tools, and work with appropriate groups to promote the commercial application of such tools, through earthquake-related building codes, standards, and construction practices;'';

(iv) by striking ''The principal official carrying out the responsibilities described in this paragraph shall be at a level no lower than that of Associate Director.''; and

(v) in subparagraph (D), as redesignated by clause (ii), by striking ''National Science Foundation, the National Institutes of Standards and Technology'' and inserting ''Federal Emergency Management Agency, the National Science Foundation'';

(B) by striking so much of paragraph (2) as precedes subparagraph (B) and inserting the following:

''(2) DEPARTMENT OF HOMELAND SECURITY; FEDERAL EMERGENCY MANAGEMENT AGENCY.—

''(A) PROGRAM RESPONSIBILITIES.—The Under Secretary of Homeland Security for Emergency Preparedness and Response (the Director of the Federal Emergency Management Agency)—

''(i) shall work closely with national standards and model building code organizations, in conjunction with the National Institute of Standards and Technology, to promote the implementation of research results;

''(ii) shall promote better building practices within the building design and construction industry including architects, engineers, contractors, builders, and inspectors;

''(iii) shall operate a program of grants and assistance to enable States to develop mitigation, preparedness, and response plans, prepare inventories and conduct seismic safety inspections of critical structures and lifelines, update building and zoning codes and ordinances to enhance seismic safety, increase earthquake awareness and education, and encourage the development of multi-State groups for such purposes;

''(iv) shall support the implementation of a comprehensive earthquake education and public awareness program, including development of materials and their wide dissemination to all appropriate audiences and support public access to locality-specific information that may assist the public in preparing for, mitigating against, responding to and recovering from earthquakes and related disasters;

''(v) shall assist the National Institute of Standards and Technology, other Federal agencies, and private sector groups, in the preparation, maintenance, and wide dissemination of seismic resistant design guidance and related information on building codes, standards, and practices for new and existing buildings, structures, and lifelines, and aid in the development of performance-based design guidelines and methodologies supporting model codes for buildings, structures, and lifelines that are cost effective and affordable;

''(vi) shall develop, coordinate, and execute the National Response Plan when required following an earthquake, and support the development of specific State and local plans for each high risk area to ensure the availability of adequate emergency medical resources, search and rescue personnel and equipment, and emergency broadcast capability;

''(vii) shall develop approaches to combine measures for earthquake hazards reduction with measures for reduction of other natural and technological hazards including performance-based design approaches;

''(viii) shall provide preparedness, response, and mitigation recommendations to communities after an earthquake prediction has been made under paragraph (3)(D); and

''(ix) may enter into cooperative agreements or contracts with States and local jurisdictions and other Federal agencies to establish demonstration projects on earthquake hazard mitigation, to link earthquake research and mitigation efforts with emergency management programs, or to prepare educational materials for national distribution.'';

(C) in paragraph (3)—

(i) by inserting ''and other activities'' after ''shall conduct research'';

(ii) in subparagraph (C), by striking ''the Agency'' and inserting ''the Director of the Federal Emergency Management Agency and the Director of the National Institute of Standards and Technology'';

(iii) in subparagraph (D), by striking ''the Director of the Agency'' and inserting ''the Director of the Federal Emergency Management Agency and the Director of the National Institute of Standards and Technology'';

(iv) in subparagraph (E), by striking ''establish, using existing facilities, a Center for the International Exchange of Earthquake Information'' and inserting ''operate, using the National Earthquake Information Center, a forum for the international exchange of earthquake information'';

(v) in subparagraph (F), by striking ''Network'' and inserting ''System''; and

(vi) by inserting after subparagraph (H) the following new subparagraphs:

''(I) work with other Program agencies to coordinate Program activities with similar earthquake hazards reduction efforts in other countries, to ensure that the Program benefits from relevant information and advances in those countries; and

''(J) maintain suitable seismic hazard maps in support of building codes for structures and lifelines, including additional maps needed for performance-based design approaches.'';

(D) in paragraph (4)—

(i) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (H), respectively;

(ii) by inserting after subparagraph (C) the following:

''(D) support research that improves the safety and performance of buildings, structures, and lifeline systems using large-scale experimental and computational facilities of the George E. Brown Jr. Network for Earthquake Engineering Simulation and other institutions engaged in research and the implementation of the National Earthquake Hazards Reduction Program;'';

(iii) in subparagraph (F) (as so redesignated), by striking ''; and'' and inserting a semicolon; and

(iv) by inserting after subparagraph (F) (as so redesignated) the following:

''(G) include to the maximum extent practicable diverse institutions, including Historically Black Colleges and Universities and those serving large proportions of Hispanics, Native Americans, Asian-Pacific Americans, and other underrepresented populations; and'';

(E) in paragraph (5), by striking ''The National'' and inserting ''In addition to the lead agency responsibilities described under paragraph (1), the National''; and

(F) in paragraph (5)—

(i) by striking ''and'' after the semicolon in subparagraph (C);

(ii) by redesignating subparagraph (D) as subparagraph (E); and

(iii) by inserting after subparagraph (C) the following:

''(D) support the development and commercial application of cost effective and affordable performance-based seismic engineering by providing technical support for seismic engineering practices and related building code, standards, and practices development; and''; and

(3) in subsection (c)(1), by striking ''Agency'' and inserting ''Interagency Coordinating Committee''.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 12 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) is amended—

(1) by adding at the end of subsection (a) the following:

''(8) There are authorized to be appropriated to the Federal Emergency Management Agency for carrying out this title—

''(A) $21,000,000 for fiscal year 2005,

''(B) $21,630,000 for fiscal year 2006,

''(C) $22,280,000 for fiscal year 2007,

''(D) $22,950,000 for fiscal year 2008, and

''(E) $23,640,000 for fiscal year 2009,

of which not less than 10 percent of available program funds actually appropriated shall be made available each such fiscal year for supporting the development of performance-based, cost-effective, and affordable design guidelines and methodologies in codes for buildings, structures, and lifelines.'';

(2) by inserting ''(1)'' before ''There'' in subsection (b);

(3) by striking ''subsection'' in the last sentence and inserting ''paragraph'';

(4) by redesignating paragraphs (1) through (5) of subsection (b) as subparagraphs (A) through (E), respectively;

(5) by adding at the end of subsection (b) the following:

''(2) There are authorized to be appropriated to the United States Geological Survey for carrying out this title—

''(A) $77,000,000 for fiscal year 2005, of which not less than $30,000,000 shall be made available for completion of the Advanced National Seismic Research and Monitoring System established under section 13;

''(B) $84,410,000 for fiscal year 2006, of which not less than $36,000,000 shall be made available for completion of the Advanced National Seismic Research and Monitoring System established under section 13;

''(C) $85,860,000 for fiscal year 2007, of which not less than $36,000,000 shall be made available for completion of the Advanced National Seismic Research and Monitoring System established under section 13;

''(D) $87,360,000 for fiscal year 2008, of which not less than $36,000,000 shall be made available for completion of the Advanced National Seismic Research and Monitoring System established under section 13; and

''(E) $88,900,000 for fiscal year 2009, of which not less than $36,000,000 shall be made available for completion of the Advanced National Seismic Research and Monitoring System established under section 13.'';

(6) by inserting ''(1)'' before ''To'' in subsection (c);

(7) by adding at the end of subsection (c) the following:

''(2) There are authorized to be appropriated to the National Science Foundation for carrying out this title—

''(A) $38,000,000 for fiscal year 2005;

''(B) $39,140,000 for fiscal year 2006;

''(C) $40,310,000 for fiscal year 2007;

''(D) $41,520,000 for fiscal year 2008; and

''(E) $42,770,000 for fiscal year 2009.'';

(8) by inserting ''(1)'' before ''To'' in subsection (d); and

(9) by adding at the end of subsection (d) the following:

''(2) There are authorized to be appropriated to the National Institute of Standards and Technology for carrying out this title—

''(A) $10,000,000 for fiscal year 2005,

''(B) $11,000,000 for fiscal year 2006,

''(C) $12,100,000 for fiscal year 2007,

''(D) $13,310,000 for fiscal year 2008, and

''(E) $14,640,000 for fiscal year 2009,

of which $2,000,000 shall be made available each such fiscal year for supporting the development of performance-based, cost-effective, and affordable codes for buildings, structures, and lifelines.''.

(b) SEPARATE AUTHORIZATION FOR THE ADVANCED NATIONAL SEISMIC RESEARCH AND MONITORING SYSTEM.—Section 13 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7707) is amended by striking subsection (c).

(c) SEPARATE AUTHORIZATION FOR THE NETWORK FOR EARTHQUAKE ENGINEERING SIMULATION.—Section 14(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7708(b)) is amended—

(1) by striking ''and'' after the semicolon in paragraph (3);

(2) by striking ''2004.'' in paragraph (4) and inserting ''2004;'';

(3) by adding at the end the following:

''(5) $20,000,000 for fiscal year 2005, all of which shall be available for operations and maintenance;

''(6) $20,400,000 for fiscal year 2006, all of which shall be available for operations and maintenance;

''(7) $20,870,000 for fiscal year 2007, all of which shall be available for operations and maintenance;

''(8) $21,390,000 for fiscal year 2008, all of which shall be available for operations and maintenance; and

''(9) $21,930,000 for fiscal year 2009, all of which shall be available for operations and maintenance.''.

TITLE II—WINDSTORM IMPACT REDUCTION

SEC. 201. SHORT TITLE.

This Act may be cited as the ''National Windstorm Impact Reduction Act of 2004''.

SEC. 202. FINDINGS.

The Congress finds the following:

(1) Hurricanes, tropical storms, tornadoes, and thunderstorms can cause significant loss of life, injury, destruction of property, and economic and social disruption. All States and regions are vulnerable to these hazards.

(2) The United States currently sustains several billion dollars in economic damages each year due to these windstorms. In recent decades, rapid development and population growth in high-risk areas has greatly increased overall vulnerability to windstorms.

(3) Improved windstorm impact reduction measures have the potential to reduce these losses through—

(A) cost-effective and affordable design and construction methods and practices;

(B) effective mitigation programs at the local, State, and national level;

(C) improved data collection and analysis and impact prediction methodologies;

(D) engineering research on improving new structures and retrofitting existing ones to better withstand windstorms, atmospheric-related research to better understand the behavior and impact of windstorms on the built environment, and subsequent application of those research results; and

(E) public education and outreach.

(4) There is an appropriate role for the Federal Government in supporting windstorm impact reduction. An effective Federal program in windstorm impact reduction will require interagency coordination, and input from individuals, academia, the private sector, and other interested non-Federal entities.

SEC. 203. DEFINITIONS.

In this title:

(1) DIRECTOR.—The term ''Director'' means the Director of the Office of Science and Technology Policy.

(2) PROGRAM.—The term ''Program'' means the National Windstorm Impact Reduction Program established by section 204(a).

(3) STATE.—The term ''State'' means each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(4) WINDSTORM.—The term ''windstorm'' means any storm with a damaging or destructive wind component, such as a hurricane, tropical storm, tornado, or thunderstorm.

SEC. 204. NATIONAL WINDSTORM IMPACT REDUCTION PROGRAM.

(a) ESTABLISHMENT.—There is established the National Windstorm Impact Reduction Program.

(b) OBJECTIVE.—The objective of the Program is the achievement of major measurable reductions in losses of life and property from windstorms. The objective is to be achieved through a coordinated Federal effort, in cooperation with other levels of government, academia, and the private sector, aimed at improving the understanding of windstorms and their impacts and developing and encouraging implementation of cost-effective mitigation measures to reduce those impacts.

(c) INTERAGENCY WORKING GROUP.—Not later than 90 days after the date of enactment of this Act, the Director shall establish an Interagency Working Group consisting of representatives of the National Science Foundation, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, the Federal Emergency Management Agency, and other Federal agencies as appropriate. The Director shall designate an agency to serve as Chair of the Working Group and be responsible for the planning, management, and coordination of the Program, including budget coordination. Specific agency roles and responsibilities under the Program shall be defined in the implementation plan required under subsection (e). General agency responsibilities shall include the following:

(1) The National Institute of Standards and Technology shall support research and development to improve building codes and standards and practices for design and construction of buildings, structures, and lifelines.

(2) The National Science Foundation shall support research in engineering and the atmospheric sciences to improve the understanding of the behavior of windstorms and their impact on buildings, structures, and lifelines.

(3) The National Oceanic and Atmospheric Administration shall support atmospheric sciences research to improve the understanding of the behavior of windstorms and their impact on buildings, structures, and lifelines.

(4) The Federal Emergency Management Agency shall support the development of risk assessment tools and effective mitigation techniques, windstorm-related data collection and analysis, public outreach, information dissemination, and implementation of mitigation measures consistent with the Agency's all-hazards approach.

(d) PROGRAM COMPONENTS.—

(1) IN GENERAL.—The Program shall consist of three primary mitigation components: improved understanding of windstorms, windstorm impact assessment, and windstorm impact reduction. The components shall be implemented through activities such as data collection and analysis, risk assessment, outreach, technology transfer, and research and development. To the extent practicable, research activities authorized under this title shall be peer-reviewed, and the components shall be designed to be complementary to, and avoid duplication of, other public and private hazard reduction efforts.

(2) UNDERSTANDING OF WINDSTORMS.—Activities to enhance the understanding of windstorms shall include research to improve knowledge of and data collection on the impact of severe wind on buildings, structures, and infrastructure.

(3) WINDSTORM IMPACT ASSESSMENT.—Activities to improve windstorm impact assessment shall include—

(A) development of mechanisms for collecting and inventorying information on the performance of buildings, structures, and infrastructure in windstorms and improved collection of pertinent information from sources, including the design and construction industry, insurance companies, and building officials;

(B) research, development, and technology transfer to improve loss estimation and risk assessment systems; and

(C) research, development, and technology transfer to improve simulation and computational modeling of windstorm impacts.

(4) WINDSTORM IMPACT REDUCTION.—Activities to reduce windstorm impacts shall include—

(A) development of improved outreach and implementation mechanisms to translate existing information and research findings into

cost-effective and affordable practices for design and construction professionals, and State and local officials;

(B) development of cost-effective and affordable windstorm-resistant systems, structures, and materials for use in new construction and retrofit of existing construction; and

(C) outreach and information dissemination related to cost-effective and affordable construction techniques, loss estimation and risk assessment methodologies, and other pertinent information regarding windstorm phenomena to Federal, State, and local officials, the construction industry, and the general public.

(e) IMPLEMENTATION PLAN.—Not later than 1 year after date of enactment of this title, the Interagency Working Group shall develop and transmit to the Congress an implementation plan for achieving the objectives of the Program. The plan shall include—

(1) an assessment of past and current public and private efforts to reduce windstorm impacts, including a comprehensive review and analysis of windstorm mitigation activities supported by the Federal Government;

(2) a description of plans for technology transfer and coordination with natural hazard mitigation activities supported by the Federal Government;

(3) a statement of strategic goals and priorities for each Program component area;

(4) a description of how the Program will achieve such goals, including detailed responsibilities for each agency; and

(5) a description of plans for cooperation and coordination with interested public and private sector entities in each program component area.

(f) BIENNIAL REPORT.—The Interagency Working Group shall, on a biennial basis, and not later than 180 days after the end of the preceding 2 fiscal years, transmit a report to the Congress describing the status of the windstorm impact reduction program, including progress achieved during the preceding two fiscal years. Each such report shall include any recommendations for legislative and other action the Interagency Working Group considers necessary and appropriate. In developing the biennial report, the Interagency Working Group shall consider the recommendations of the Advisory Committee established under section 205.

SEC. 205. NATIONAL ADVISORY COMMITTEE ON WINDSTORM IMPACT REDUCTION.

(a) ESTABLISHMENT.—The Director shall establish a National Advisory Committee on Windstorm Impact Reduction, consisting of not less than 11 and not more than 15 non-Federal members representing a broad cross section of interests such as the research, technology transfer, design and construction, and financial communities; materials and systems suppliers; State, county, and local governments; the insurance industry; and other representatives as designated by the Director.

(b) ASSESSMENT.—The Advisory Committee shall assess—

(1) trends and developments in the science and engineering of windstorm impact reduction;

(2) the effectiveness of the Program in carrying out the activities under section 204(d);

(3) the need to revise the Program; and

(4) the management, coordination, implementation, and activities of the Program.

(c) BIENNIAL REPORT.—At least once every two years, the Advisory Committee shall report to Congress and the Interagency Working Group on the assessment carried out under subsection (b).

(d) SUNSET EXEMPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee established under this section.

SEC. 206. SAVINGS CLAUSE.

Nothing in this title supersedes any provision of the National Manufactured Housing Construction and Safety Standards Act of 1974. No design, construction method, practice, technology, material, mitigation methodology, or hazard reduction measure of any kind developed under this title shall be required for a home certified under section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415), pursuant to standards issued under such Act, without being subject to the consensus development process and rulemaking procedures of that Act.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) FEDERAL EMERGENCY MANAGEMENT AGENCY.—There are authorized to be appropriated to the Federal Emergency Management Agency for carrying out this title—

(1) $8,700,000 for fiscal year 2006;

(2) $9,400,000 for fiscal year 2007; and

(3) $9,400,000 for fiscal year 2008.

(b) NATIONAL SCIENCE FOUNDATION.—There are authorized to be appropriated to the National Science Foundation for carrying out this title—

(1) $8,700,000 for fiscal year 2006;

(2) $9,400,000 for fiscal year 2007; and

(3) $9,400,000 for fiscal year 2008.

(c) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There are authorized to be appropriated to the National Institute of Standards and Technology for carrying out this title—

(1) $3,000,000 for fiscal year 2006;

(2) $4,000,000 for fiscal year 2007; and

(3) $4,000,000 for fiscal year 2008.

(d) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—There are authorized to be appropriated to the National Oceanic and Atmospheric Administration for carrying out this title—

(1) $2,100,000 for fiscal year 2006;

(2) $2,200,000 for fiscal year 2007; and

(3) $2,200,000 for fiscal year 2008.

SEC. 208. BIENNIAL REPORT.

Section 37(a) of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885d(a)) is amended by striking ''By January 30, 1982, and biennially thereafter'' and inserting ''By January 30 of each odd-numbered year''.

SEC. 209. COORDINATION.

The Secretary of Commerce, the Director of the National Institute of Standards and Technology, the Director of the Office of Science and Technology Policy and the heads of other Federal departments and agencies carrying out activities under this title and the statutes amended by this title shall work together to ensure that research, technologies, and response techniques are shared among the programs authorized in this title in order to coordinate the Nation's efforts to reduce vulnerability to the hazards described in this title.

TITLE III—COMMERCIAL SPACE TRANSPORTATION

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 70119 of title 49, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

''(1) $11,941,000 for fiscal year 2005;

''(2) $12,299,000 for fiscal year 2006;

''(3) $12,668,000 for fiscal year 2007;

''(4) $13,048,000 for fiscal year 2008; and

''(5) $13,440,000 for fiscal year 2009.''.

SA 3984. Mr. BAYH (for himself, Mr. ROBERTS, Mr. WYDEN, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; which was ordered to lie on the table; as follows:

Section 201 is amended by adding at the end the following:

(i) REFERRAL.—Section 3 of S. Res. 400 is amended by—

(1) striking subsection (b); and

(2) redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SA 3985. Mr. CHAMBLISS (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; which was ordered to lie on the table; as follows:

At the end of section 101(b)(1) insert the following:

''and except matters relating to the U.S. Citizenship and Immigration Service, the U.S. Customs and Border Protection, and the U.S. Immigration and Customs Enforcement, other than predominantly and substantially anti-terrorism matters; and except matters relating to the immigration functions of the Directorate of Border and Transportation Security.''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on October 6, 2004, at 10 a.m., in open session to consider the following nominations: Francis J. Harvey to be Secretary of the Army; Richard Greco, Jr., to be Assistant Secretary of the Navy for Financial Management; and General Gregory S. Martin, USAF, for reappointment to the grade of General and to be Commander, United States Pacific Command.

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

COMMITTEE ON ARMED SERVICES

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on October 6, 2004, at 2:30 p.m., in open session to receive testimony on the report of the Special Advisor to the Director of Central Intelligence for strategy regarding Iraqi weapons of mass destruction programs.

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

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 6, 2004 at 9:30 a.m. to hold a hearing on Addressing the New Reality of Current Visa Policy on International Student Researchers.

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

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 6, 2004 at 2:30 p.m. to hold a hearing on Neglected Diseases in East Asia: Are Public Health Programs Working?

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions and the Committee on the Judiciary be authorized to meet for a joint hearing on BioShield II: Responding to an Ever-Changing Threat during the session of the Senate on Wednesday, October 6, 2004 at 10 a.m. in SH–216.

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

COMMITTEE ON INDIAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, October 6, 2004, at 10 a.m., in room 485 of the Hart Senate Office Building to conduct a business meeting on pending Committee matters.

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

COMMITTEE ON VETERANS' AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on October 6, 2004, for a markup on the nominations of Robert N. Davis, to be Judge, U.S. Court of Appeals for Veterans Claims; Mary J. Schoelen, to be a Judge, U.S. Court of Appeals for Veterans Claims; William A. Moorman, to be Judge, U.S. Court of Appeals for Veterans Claims; and Robert Allen Pittman, to be Assistant Secretary (Human Resources and Administration), U.S. Department of Veterans Affairs.

The meeting will take place in S–216 in the Capitol, immediately following the first rollcall vote of the Senate after 11:30 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on October 6, 2004, at 10 a.m., to hold a closed hearing.

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

SUBCOMMITTEE ON COMPETITION, FOREIGN COMMERCE, AND INFRASTRUCTURE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Competition, Foreign Commerce, and Infrastructure be authorized to meet on Wednesday, October 6, 2004, at 2:30 p.m., on Natural Gas.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations: PN 1790, PN 1825, PN 1991, PN 1992, career senior Foreign Service list PN 1952.

I further ask unanimous consent that the Senate proceed to their consideration, the nominations be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's actions, and the Senate resume legislative session.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Christopher J. LaFleur, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

B. Lynn Pascoe, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

Ryan C. Crocker, of Washington, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

Marcie B. Ries, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

The following-named Career Members of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service of a sustained period:

To be career ambassador

Ryan C. Crocker, of Washington
Marc Isaiah Grossman, of Virginia
A. Elizabeth Jones, of Maryland
Alan Philip Larson, of Iowa
Johnny Young, of Maryland

NOMINATIONS PLACED ON THE CALENDAR—PN–1881, PN–1880, PN–1840, PN–1829, PN–1830

Mr. MCCONNELL. Mr. President, I further ask consent that the Foreign Relations Committee be discharged from consideration of the following nominations, and that the nominations be placed on the calendar: PN–1881, PN–1880, PN–1840, PN–1829, PN–1830.

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

APPOINTMENT

The PRESIDING OFFICER. the Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senators as members of the Senate Delegation to the NATO Parliamentary Assembly during the Second Session of the 108th Congress: Senator CHARLES GRASSLEY of Iowa, Senator MIKE DEWINE of Ohio, Senator MIKE ENZI of Wyoming and Senator GEORGE VOINOVICH of Ohio.

ANABOLIC STEROID CONTROL ACT OF 2004

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 750, S. 2195.

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

The legislative clerk read as follows:

A bill (S. 2195) to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part in italic.]

S. 2195

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 ''Anabolic Steroid Control Act of 2004''.

[SEC. 2. AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

[(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

[(1) in paragraph (41)—

[(A) by realigning the margin so as to align with paragraph (40); and

[(B) by striking subparagraph (A) and inserting the following:

[''(A) The term 'anabolic steroid' means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone), and includes—

[''(i) androstanediol—

[''(I) 3β,17β-dihydroxy-5α-androstane; and

[''(II) 3α,17β-dihydroxy-5α-androstane;

[''(ii) androstanedione (5α-androstan-3,17-dione);

[''(iii) androstenediol—

[''(I) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);

[''(II) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);

[''(III) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene); and

[''(IV) 5-androstenediol (3β,17β-dihydroxy-androst-5-ene);

[''(iv) androstenedione—

[''(I) 1-androstenedione ([5α]-androst-1-en-3,17-dione);

[''(II) 4-androstenedione (androst-4-en-3,17-dione); and

[''(III) 5-androstenedione (androst-5-en-3,17-dione);

[''(v) bolasterone (7α,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

[''(vi) boldenone (17β-hydroxyandrost-1,4,-diene-3-one);

[''(vii) calusterone (7β,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

[''(viii) clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one);

[''(ix) dehydrochloromethyltestosterone (4-chloro-17β-hydroxy-17α-methyl-androst-1,4-dien-3-one);

[''(x) Δ 1-dihydrotestosterone (a.k.a. '1-testosterone') (17β-hydroxy-5α-androst-1-en-3-one);

[''(xi) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one);

[''(xii) drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one);

[''(xiii) ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene);

[''(xiv) fluoxymesterone (9-fluoro-17α-methyl-11β,17β-dihydroxyandrost-4-en-3-one);

[''(xv) formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one);

[''(xvi) furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan);

[''(xvii) 13α-ethyl-17α-hydroxygon-4-en-3-one;

[''(xviii) 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one);

[''(xix) 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one);

[''(xx) mestanolone (17α-methyl-17β-hydroxy-5α-androstan-3-one);

[''(xxi) mesterolone (1α-methyl-17β-hydroxy-[5α]-androstan-3-one);

[''(xxii) methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one);

[''(xxiii) methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene);

[''(xxiv) methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one);

[''(xxv) methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one);

[''(xxvi) mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one);

[''(xxvii) 17α-methyl-Δ 1-dihydrotestosterone (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one) (a.k.a. '17-α-methyl-1-testosterone');

[''(xxviii) nandrolone (17β-hydroxyestr-4-en-3-one);

[''(xxix) norandrostenediol—

[''(I) 19-nor-4-androstenediol (3β, 17β-dihydroxyestr-4-ene);

[''(II) 19-nor-4-androstenediol (3α, 17β-dihydroxyestr-4-ene);

[''(III) 19-nor-5-androstenediol (3β, 17β-dihydroxyestr-5-ene); and

[''(IV) 19-nor-5-androstenediol (3α, 17β-dihydroxyestr-5-ene);

[''(xxx) norandrostenedione—

[''(I) 19-nor-4-androstenedione (estr-4-en-3,17-dione); and

[''(II) 19-nor-5-androstenedione (estr-5-en-3,17-dione;

[''(xxxi) norbolethone (13β,17α-diethyl-17β-hydroxygon-4-en-3-one);

[''(xxxii) norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one);

[''(xxxiii) norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one);

[''(xxxiv) oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one);

[''(xxxv) oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one);

[''(xxxvi) oxymetholone (17α-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one);

[''(xxxvii) stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);

[''(xxxviii) stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one);

[''(xxxix) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

[''(xl) testosterone (17β-hydroxyandrost-4-en-3-one);

[''(xli) tetrahydrogestrinone (13β,17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one);

[''(xlii) trenbolone (17β-hydroxyestr-4,9,11-trien-3-one); and

[''(xliii) any salt, ester, or ether of a drug or substance described in this paragraph.''; and

[(2) in paragraph (44), by inserting ''anabolic steroids,'' after ''marihuana,''.

[(b) AUTHORITY AND CRITERIA FOR CLASSIFICATION.—Section 201(g) of the Controlled Substances Act (21 U.S.C. 811(g)) is amended—

[(1) in paragraph (1), by striking ''substance from a schedule if such substance'' and inserting ''drug which contains a controlled substance from the application of titles II and III of the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 802 et seq.) if such drug''; and

[(2) in paragraph (3), by adding at the end the following:

[''(C) Upon the recommendation of the Secretary of Health and Human Services, a compound, mixture, or preparation which contains any anabolic steroid, which is intended for administration to a human being or an animal, and which, because of its concentration, preparation, formulation or delivery system, does not present any significant potential for abuse.''.

[(c) ANABOLIC STEROIDS CONTROL ACT.—Section 1903 of the Anabolic Steroids Control Act of 1990 (Public Law 101–647) is amended—

[(1) by striking subsection (a); and

[(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

[SEC. 3. SENTENCING COMMISSION GUIDELINES.

[The United States Sentencing Commission shall—

[(1) review the Federal sentencing guidelines with respect to offenses involving anabolic steroids;

[(2) consider amending the Federal sentencing guidelines to provide for increased penalties with respect to offenses involving anabolic steroids in a manner that reflects the seriousness of such offenses and the need to deter anabolic steroid trafficking and use; and

[(3) take such other action that the Commission considers necessary to carry out this section.

[SEC. 4. PREVENTION AND EDUCATION PROGRAMS.

[(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the ''Secretary'') shall award grants to public and nonprofit private entities to enable such entities to carry out science-based education programs in elementary and secondary schools to highlight the harmful effects of anabolic steroids.

[(b) ELIGIBILITY.—

[(1) APPLICATION.—To be eligible for grants under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

[(2) PREFERENCE.—In awarding grants under subsection (a), the Secretary shall give preference to applicants that intend to use grant funds to carry out programs based on—

[(A) the Athletes Training and Learning to Avoid Steroids program;

[(B) the Athletes Targeting Healthy Exercise and Nutrition Alternatives program; and

[(C) other programs determined to be effective by the National Institute on Drug Abuse.

[(c) USE OF FUNDS.—Amounts received under a grant under subsection (a) shall be used primarily for education programs that will directly communicate with teachers, principals, coaches, as well as elementary and secondary school children concerning the harmful effects of anabolic steroids.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $15,000,000 for each of fiscal years 2005 through 2010.

[SEC. 5. NATIONAL SURVEY ON DRUG USE AND HEALTH.

[(a) IN GENERAL.—The Secretary of Health and Human Services shall ensure that the National Survey on Drug Use and Health includes questions concerning the use of anabolic steroids.

[(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $1,000,000 for each of fiscal years 2005 through 2010.]

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Anabolic Steroid Control Act of 2004''.

SEC. 2. AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (41)—

(A) by realigning the margin so as to align with paragraph (40); and

(B) by striking subparagraph (A) and inserting the following:

''(A) The term 'anabolic steroid' means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone), and includes—

''(i) androstanediol—

''(I) 3β,17β-dihydroxy-5α-androstane; and

''(II) 3α,17β-dihydroxy-5α-androstane;

''(ii) androstanedione (5α-androstan-3,17-dione);

''(iii) androstenediol—

''(I) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);

''(II) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);

''(III) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene); and

''(IV) 5-androstenediol (3β,17β-dihydroxy-androst-5-ene);

''(iv) androstenedione—

''(I) 1-androstenedione ([5α]-androst-1-en-3,17-dione);

''(II) 4-androstenedione (androst-4-en-3,17-dione); and

''(III) 5-androstenedione (androst-5-en-3,17-dione);

''(v) bolasterone (7α,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

''(vi) boldenone (17β-hydroxyandrost-1,4,-diene-3-one);

''(vii) calusterone (7β,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

''(viii) clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one);

''(ix) dehydrochloromethyltestosterone (4-chloro-17β-hydroxy-17α-methyl-androst-1,4-dien-3-one);

''(x) Δ 1-dihydrotestosterone (a.k.a. '1-testosterone') (17β-hydroxy-5α-androst-1-en-3-one);

''(xi) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one);

''(xii) drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one);

''(xiii) ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene);

''(xiv) fluoxymesterone (9-fluoro-17α-methyl-11β,17β-dihydroxyandrost-4-en-3-one);

''(xv) formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one);

''(xvi) furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan);

''(xvii) 13β-ethyl-17α-hydroxygon-4-en-3-one;

''(xviii) 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one);

''(xix) 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one);

''(xx) mestanolone (17α-methyl-17β-hydroxy-5α-androstan-3-one);

''(xxi) mesterolone (1α-methyl-17β-hydroxy-[5α]-androstan-3-one);

''(xxii) methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one);

''(xxiii) methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene);

''(xxiv) methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one);

''(xxv) 17α-methyl-3β, 17β-dihydroxy-5α-androstane;

''(xxvi) 17α-methyl-3α,17β-dihydroxy-5α-androstane;

''(xxvii) 17α-methyl-3β,17β-dihydroxyandrost-4-ene.

''(xxviii) 17α-methyl-4-hydroxynandrolone (17α-methyl-4-hydroxy-17β-hydroxyestr-4-en-3-one);

''(xxix) methyldienolone (17α-methyl-17β-hydroxyestra-4,9(10)-dien-3-one);

''(xxx) methyltrienolone (17α-methyl-17β-hydroxyestra-4,9-11-trien-3-one);

''(xxxi) methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one);

''(xxxii) mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one);

''(xxxiii) 17α-methyl-Δ 1-dihydrotestosterone (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one) (a.k.a. '17-α-methyl-1-testosterone');

''(xxxiv) nandrolone (17β-hydroxyestr-4-en-3-one);

''(xxxv) norandrostenediol—

''(I) 19-nor-4-androstenediol (3β, 17β-dihydroxyestr-4-ene);

''(II) 19-nor-4-androstenediol (3α, 17β-dihydroxyestr-4-ene);

''(III) 19-nor-5-androstenediol (3β, 17β-dihydroxyestr-5-ene); and

''(IV) 19-nor-5-androstenediol (3α, 17β-dihydroxyestr-5-ene);

''(xxxvi) norandrostenedione—

''(I) 19-nor-4-androstenedione (estr-4-en-3,17-dione); and

''(II) 19-nor-5-androstenedione (estr-5-en-3,17-dione;

''(xxxvii) norbolethone (13β,17α-diethyl-17β-hydroxygon-4-en-3-one);

''(xxxviii) norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one);

''(xxxix) norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one);

''(xl) normethandrolone (17α-methyl-17β-hydroxyestr-4-en-3-one);

''(xli) oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one);

''(xlii) oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one);

''(xliii) oxymetholone (17α-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one);

''(xliv) stanozolol (17α-methyl-17α-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);

''(xlv) stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one);

''(xlvi) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

''(xlvii) testosterone (17β-hydroxyandrost-4-en-3-one);

''(xlviii) tetrahydrogestrinone (13β,17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one);

''(xlix) trenbolone (17β-hydroxyestr-4,9,11-trien-3-one); and

''(xlx) any salt, ester, or ether of a drug or substance described in this paragraph.

The substances excluded under this subparagraph may at any time be scheduled by the Attorney General in accordance with the authority and requirements of subsections (a) through (c) of section 201.''; and

(2) in paragraph (44), by inserting ''anabolic steroids,'' after ''marihuana,''.

(b) AUTHORITY AND CRITERIA FOR CLASSIFICATION.—Section 201(g) of the Controlled Substances Act (21 U.S.C. 811(g)) is amended—

(1) in paragraph (1), by striking ''substance from a schedule if such substance'' and inserting ''drug which contains a controlled substance from the application of titles II and III of the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 802 et seq.) if such drug''; and

(2) in paragraph (3), by adding at the end the following:

''(C) Upon the recommendation of the Secretary of Health and Human Services, a compound, mixture, or preparation which contains any anabolic steroid, which is intended for administration to a human being or an animal, and which, because of its concentration, preparation, formulation or delivery system, does not present any significant potential for abuse.''.

(c) ANABOLIC STEROIDS CONTROL ACT.—Section 1903 of the Anabolic Steroids Control Act of 1990 (Public Law 101–647) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 3. SENTENCING COMMISSION GUIDELINES.

The United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines with respect to offenses involving anabolic steroids;

(2) consider amending the Federal sentencing guidelines to provide for increased penalties with respect to offenses involving anabolic steroids in a manner that reflects the seriousness of such offenses and the need to deter anabolic steroid trafficking and use; and

(3) take such other action that the Commission considers necessary to carry out this section.

SEC. 4. PREVENTION AND EDUCATION PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the ''Secretary'') shall award grants to public and nonprofit private entities to enable such entities to carry out science-based education programs in elementary and secondary schools to highlight the harmful effects of anabolic steroids.

(b) ELIGIBILITY.—

(1) APPLICATION.—To be eligible for grants under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) PREFERENCE.—In awarding grants under subsection (a), the Secretary shall give preference to applicants that intend to use grant funds to carry out programs based on—

(A) the Athletes Training and Learning to Avoid Steroids program;

(B) The Athletes Targeting Healthy Exercise and Nutrition Alternatives program; and

(C) other programs determined to be effective by the National Institute on Drug Abuse.

(c) USE OF FUNDS.—Amounts received under a grant under subsection (a) shall be used primarily for education programs that will directly communicate with teachers, principals, coaches, as well as elementary and secondary school children concerning the harmful effects of anabolic steroids.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $15,000,000 for each of fiscal years 2005 through 2010.

SEC. 5. NATIONAL SURVEY ON DRUG USE AND HEALTH.

(a) IN GENERAL.—The Secretary of Health and Human Services shall ensure that the National Survey on Drug Use and Health includes questions concerning the use of anabolic steroids.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $1,000,000 for each of fiscal years 2005 through 2010.

DIETARY SUPPLEMENTS

Mr. BIDEN. The purpose of S. 2195, The Anabolic Steroid Control Act of 2004, is to address the abuse of steroids by athletes and, especially, by youngsters and teenagers. Some substances marketed as dietary supplements, such as androstenedione, will be anabolic steroids under this bill. That means that they will be regulated as controlled substances and not as dietary supplements. As such, there will be significant controls on their distribution and use, including substantial criminal penalties.

Mr. DURBIN. Will the Senator yield for a question?

Mr. BIDEN. I will.

Mr. DURBIN. I would like to commend the senior Senator from Delaware and the chairman of the Judiciary Committee, the senior Senator from Utah, for their leadership on this important legislation. I would also like to ask the distinguished Senator from Delaware to elaborate on how this bill affects DHEA, a hormone precursor that is sometimes marketed as a dietary supplement.

Mr. BIDEN. I thank the senior Senator from Illinois for his question, and for working with us to clarify this issue in the bill. We do not intend this bill to stop the use of substances that are legitimately marketed as dietary supplements, or to limit access to substances that are not abused as steroids by athletes or children. With respect to DHEA, this legislation does not make it a controlled substance, and the legislation should mean that legitimate users of DHEA would continue to have access to it if it is lawfully marketed.

Mr. HATCH. Will the Senator yield?

Mr. BIDEN. I will.

Mr. HATCH. I too would like to thank the senior Senator from Illinois for working with the senior Senator from Delaware and with me on this legislation. I would also like to clarify, however, that the legislation does provide that, if the Drug Enforcement Administration should find that DHEA is being abused by athletes, by youngsters, or by teenagers, DEA can schedule it as a controlled substance.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. HATCH. I will.

Mr. KENNEDY. I commend the senior Senator from Utah, as well as the senior Senator from Delaware, for their leadership on this legislation, and for working with me and the senior Senator from Illinois to address the issue of DHEA. Could the Senator explain to me how the Drug Enforcement Administration would go about scheduling DHEA?

Mr. HATCH. Certainly. The legislation clarifies that DEA may schedule DHEA by applying the standards in section 201 of the Controlled Substances Act, including the standard eight factors listed in section 201(c) of that Act.

Mr. DURBIN. Will the distinguished Senator yield for a question?

Mr. HATCH. I will.

Mr. DURBIN. Will the Senator please explain whether the Drug Enforcement Administration will need to consider that DHEA meets each of the eight factors in section 201(c) to schedule it?

Mr. HATCH. The DEA need not find that DHEA meets each of the eight factors before it can be scheduled. For example, if DEA considers that DHEA

has no or minimal psychic or physiological dependence liability, DEA may nonetheless schedule DHEA if DEA concludes, after consideration of the facts and relative importance of other of the factors such as the actual or relative potential for abuse; the history and current pattern of abuse; or the scope, duration, and significance of abuse, that it should be scheduled. Karen P. Tandy, the administrator of the DEA, has written me a letter stating that the presence of each of the eight factors is not a mandatory prerequisite to scheduling. I ask unanimous consent that the letter dated May 20, 2004, be printed in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION,
Washington, DC, May 20, 2004.

Hon. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to respond to questions your staff posed regarding consideration of certain statutory factors incident to scheduling substances under the Controlled Substances Act.

The relevant statutory provision, 21 U.S.C. §811(c), requires consideration of eight specific factors as one of the prerequisites to whether a substance should be scheduled. The presence of each individual factor or specific findings with respect to each individual factor are not a mandatory prerequisite to scheduling. These statutory factors are: (1) The drug's actual or relative potential for abuse; (2) Scientific evidence of the drug's pharmacological effects; (3) The state of current scientific knowledge regarding the subject; (4) Its history and current pattern of abuse; (5) The scope, duration, and significance of abuse; (6) What, if any, risk there is to the public health; (7) The drug's psychic or physiological dependence liability and; (8) Whether a substance is an immediate precursor of a substance already controlled.

You should be aware that evaluation of these eight factors is not solely determinative and is part of a more extensive scheduling process. The entire process for scheduling substances to which these eight factors apply includes: consideration of additional statutory criteria relevant to each specific schedule [21 U.S.C. §811(b)]; an evaluation and recommendation by the Secretary of Health and Human Services; and then a formal rulemaking.

I appreciate the opportunity to clarify this matter, and please let me know if I may answer any further questions.

Sincerely,

KAREN P. TANDY,
Administrator.

Mr. KENNEDY. Will my good friend from Utah yield for a further question?

Mr. HATCH. Certainly.

Mr. KENNEDY. If DHEA becomes an abuse problem by athletes or by youngsters or teenagers, and DEA fails to act, can the Senator assure me and the senior Senator from Illinois that the Judiciary Committee will act accordingly?

Mr. HATCH. Yes, I am committed to stepping in to change the law to protect the public health if abuse of DHEA by athletes or by youngsters or teenagers is a problem and DEA fails to take effective action with the authority we have given it. I must add for the record that at the present time I am not aware of sufficient evidence of DHEA abuse among athletes or young people to warrant it being categorized as an anabolic steroid at this time.

Mr. BIDEN. Will the Senator yield?

Mr. HATCH. Yes.

Mr. BIDEN. I, too, am committed to acting whenever any substance, whether it is DHEA or another steroid substance, becomes an abuse problem.

Mr. MCCONNELL. I ask unanimous consent that the technical amendment at the desk be agreed to; the committee-reported amendment, as amended, be agreed to; the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3982) was agreed to, as follows:

In section 4(c) in the matter proposed to be inserted, strike ''primarily''.

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

The bill (S. 2195), as amended, was read the third time and passed.

DISTRICT OF COLUMBIA APPROPRIATIONS FOR THE FISCAL YEAR 2005, AND FOR OTHER PURPOSES—CONFERENCE REPORT

Mr. MCCONNELL. Mr. President, I submit a report of the committee of conference on the bill (H.R. 4850), and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4850), 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, 2005, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

(The conference report is printed in the proceedings of the House in the RECORD of Tuesday, October 5, 2004.)

Ms. LANDRIEU. Mr. President, I am very pleased to join Chairman DEWINE while the Senate considers passage of the fiscal year 2005 District of Columbia appropriations conference report. The bill totals $560 million, which is an increase of $18.3 million from fiscal year 2004. The conference agreement represents a concerted effort of the House and Senate members to complete a bi-partisan bill only 6 days into the new fiscal year. This is a true win for the District of Columbia, whose budget has been delayed in Congress past December and January in recent years.

During our 3-year term as chairman and ranking member of the D.C. Appropriations Subcommittee, Senator DEWINE and I have met many challenges to stay in our allocation and deal appropriately with controversial issues. Above it all we have remained great friends. The conference report meets the District's current needs in security, criminal justice, education, and child welfare.

The conference report funds the three criminal justice functions transferred to the Federal Government for funding and oversight in the National Capital Revitalization and Self-Government Improvement Act of 1997. These functions, the courts, offender supervision, and defender services, are funded at a level which will meet the needs of FY 2005, though it was necessary to reduce funding in order to support other priorities of the Mayor and Council of the District.

The conferees recommend $190.8 million for the D.C. Courts, of which $56 million is for capital improvements which we believe will be sufficient to continue restoration of the historic Old Courthouse and planning for the new Family Court facility. I was pleased to attend the ribbon cutting just a few weeks ago for the renovated interim space of the Family Court, which we funded last year. The courts have done a tremendous job of improving how the court operates, as well as improving the points where residents interact with the court—the training of their staff and the aesthetic of space. It is so important, especially for children visiting the court, to have a space that welcomes them and enables confidence in the justice system. The courts are to be commended for doing so much with small increases and we have confidence they will be able to continue this year.

In addition, $180 million is included for the Court Services and Offender Supervision Agency which is responsible for all adult offenders reentering the community from prison. This agency has a critical role in public safety in the District and we have worked to ensure they have the tools needed to do their job. Chairman DEWINE championed an initiative to lower the caseload ratios for special population offenders and expand use of technology to ensure offenders are meeting their parole requirements. The conference also includes $38.5 million for defender services which represents indigent defendants in the District. It is our intention this level will enable the courts to increase the pay of lawyers from $50 to $60 per hour, an increase which was started 3 years ago.

Outside of the Congress' responsibility for the main criminal justice functions in the District, the bill also funds several key initiatives which the House and Senate have launched to contribute to improving education and the welfare of children in the District. I want to recognize Senator DEWINE's commitment to abused and neglected children in this city, including $5 million for early intervention services,

mental health services, and to support foster parents. Through Senator DEWINE's commitment the status of children in the child welfare system has improved greatly, and with his sure hand I am confident it will continue to improve. There is much work to be done. In addition, $6 million was included in the conference report on behalf of the House Chairman RODNEY FRELINGHUYSEN to renovate school libraries in the District of Columbia public schools which will enable many more of the 65,000 student in the system to enjoy books and technology.

Great communities need great schools. This bill includes $26 million for public education in support of the committee's goal to improve education in the District, evenly divided between traditional public schools and public charter schools. A new superintendent has been hired for the D.C. Public School system, Dr. Clifford Janey, and we are excited about his energy to reform and improve and want to support his efforts as strongly as possible. This bill includes certain tools to contribute to Dr. Janey's work.

In our public schools we must recognize and reward excellence. We must acknowledge and eliminate failure. This bill directs a total of $4 million for a new incentive grant program for public education improvement in both traditional public schools and public charter schools. These grants will be awarded to the principal of high-performing or significantly improved public schools to reward their good work. A reward is a powerful incentive to build on success and meet some of the areas which can make their school thrive. I want to take this opportunity to recognize the House chairman and ranking member for their support of this new program which will contribute to reinvigorating our public schools.

The second prong of the School Improvement Fund, $13 million for public charter schools, is a contribution to strengthen the chartering system. With 42 charters granted to date, the highest number of charter schools per capita, is a leader in the effort to use charter schools to spur system-wide improvement from within our system of public education. Senator DEWINE and I maintain our commitment to serve as a full and equal partner in this endeavor.

Strengthening charter schools, which were created in the District by Congress in the 1995 School Reform Act, is a primary tenet of our work to improve education. Pursuant to Section 120 of P.L. 106–522, the FY 01 DC Appropriations Act, the local government is prohibited from amending the School Reform Act. Therefore, Congress has continued our oversight responsibility of the charter school law this year. The bill fortifies the environment where strong, accountable, academically excellent charter schools flourish.

Finally, the conference report begins a new investment in the administration of justice in the District by contributing $8 million to the construction of a new forensics lab, a top priority for the Mayor and council. This laboratory will alleviate contract pressure D.C. imposes on other Federal agencies, such as the FBI, to complete local forensic work and ensure timely processing of lab work, such as DNA tests. The bill also contributes to security and emergency preparedness in the Nation's capital with $21 million to bolster the police and first responders. This includes the annual payment of $15 million for security of Federal installations in the city and to enable the police presence now required. The conferees also provide $6 million to complete the Unified Communications Center which will coordinate all first-responders in the capital region. In addition to all of the important investments in the District, there is $7.8 million for cleaning up the Anacostia River and providing recreation for the entire region and $2.5 million for transportation improvements.

I would like to close by thanking the Mayor of the District of Columbia, Anthony Williams, the entire Council, particularly the Chair Linda Cropp, and the D.C. Delegate to Congress ELEANOR HOLMES NORTON for their many contributions and advice in developing this bill. The D.C. Appropriations Subcommittee has a unique role to fund certain aspects of the city government and we could not do that well without the guidance of the elected representative of the city's residents. They are great partners for Chairman DEWINE and I to ensure the bill meets the needs of the District. I am especially pleased this year that we are passing the final budget so early in the fiscal year, because the city's local budget, nearly $8 billion, of locally-generated tax dollars, must be approved as part of this bill.

I appreciate the chairman's consideration and our ability to work together so well. And finally, no bill could be completed without the diligent work of our staff, Mary Dietrich for Senator DEWINE and Kate Eltrich and Kathleen Strottman on my staff. This year has been blessed by a comity not often observed in the Congress in regards to our Capital City, and I thank all my colleagues for their commitment to a positive year and a first-rate bill for the District.

Mr. MCCONNELL. Mr. President, was that the reading of the DC conference report?

The PRESIDING OFFICER. Yes.

Mr. MCCONNELL. I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany H.R. 4850, the DC appropriations bill, provided that the conference report be adopted, and the motion to reconsider be laid upon the table.

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

The conference report was agreed to.

SENATE LEGAL COUNSEL AUTHORIZATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 450, which was submitted earlier today.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 450) to authorize testimony and representation of the United States v. Daniel Bayly, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony and representation in a criminal case arising out of the Enron debacle. The Justice Department's Enron Task Force has brought a case in Federal court in Texas against six individuals formerly associated with the Enron Corporation and Merrill Lynch. The indictment alleges conspiracy, false statements, obstruction of justice, and perjury relating to transactions involving offshore power barges. The Government alleges that Enron in essence parked assets with Merrill Lynch to enhance fraudulently Enron's financial statements.

The transactions at the center of this case were the subject of extensive investigation and a hearing by the Permanent Subcommittee on Investigations of the Committee on Government Affairs during the last Congress. In the course of the subcommittee's investigation, subcommittee staff interviewed two of the individuals who are now on trial, about these transactions.

Last Congress the Senate agreed to Senate Resolution 317, authorizing the Permanent Subcommittee on Investigations to cooperate with requests from law enforcement agencies for access to subcommittee records from its Enron investigation. In June of this year, the Senate agreed to Senate Resolution 394, authorizing a former subcommittee counsel and a subcommittee detailee who interviewed the defendants to testify at this trial.

The trial of this case began on September 20, 2004, in Houston. One of the defendants has now additionally subpoenaed a former subcommittee employee and a former detailee to testify about the same events. Accordingly, this resolution would authorize the former subcommittee staff to testify at this trial with representation by the Senate Legal Counsel.

Mr. MCCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 450) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 450

Whereas, by Senate Resolution 317, 107th Congress, the Senate authorized the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs to produce records from its investigation into the collapse to Enron Corporation to law enforcement and regulatory officials and agencies;

Whereas, by Senate Resolution 394, 108th Congress, the Senate authorized testimony and legal representation of a former employee of, and a detailee to, the Permanent Subcommittee on Investigation in the case of United States v. Daniel Bayly, et al., Cr. No. H–03–363, pending in the United States District Court for the Southern District of Texas;

Whereas, in the case of United States v. Daniel Bayly, et al., subpoenas for testimony have been issued to Claire Barnard, a former employee of, and Edna Falk Curtin, a former detailee to, Permanent Subcommittee on Investigation;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Claire Barnard and Edna Falk Curtin are authorized to testify in the case of United States v. Daniel Bayly, et al., except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Claire Barnard and Edna Falk Curtin in connection with the testimony authorized in section one of this resolution.

FAMILY FARMER BANKRUPTCY RELIEF ACT OF 2004

Mr. MCCONNELL. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 2864, and the Senate proceed to its immediate consideration.

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

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2864) to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate is passing legislation to renew and extend family farmer bankruptcy protection through June 30, 2005.

Senator GRASSLEY and I introduced the Family Farmer Bankruptcy Relief Act, S. 2864, to retroactively renew and temporarily extend these protections that our farmers have come to rely upon because Chapter 12 of the Bankruptcy Code expired on January 1, 2004. Representative TAMMY BALDWIN and Representative NICK SMITH have introduced companion legislation in the House of Representatives.

But our bipartisan legislation is just a short-term fix. We need to stop playing politics and permanently reauthorize the Chapter 12 family farmer protections.

Too many family farmers have been left in legal limbo in bankruptcy courts across the country because Chapter 12 of the Bankruptcy Code is still a temporary measure. This is the eleventh time that Congress must act to restore or extend basic bankruptcy safeguards for family farmers because Chapter 12 is still a temporary provision despite its first passage into law in 1986. Our family farmers do not deserve these lapses in bankruptcy law that could mean the difference between foreclosure and farming.

Mr. President, I ask unanimous consent that a letter from many representatives of family farmers that underscores the need for renewing the Chapter 12 bankruptcy protections be printed in the RECORD at the end of my remarks.

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

(See exhibit 1.)

Mr. LEAHY. It is time to end this absurdity and make these bankruptcy protections permanent. Everyone agrees that Chapter 12 has worked. It is time for Congress to make Chapter 12 a permanent part of the Bankruptcy Code to provide a stable safety net for our Nation's family farmers.

I will continue to work with Senator GRASSLEY, Senator FEINGOLD, Representative BALDWIN, Representative NICK SMITH and others on both sides of the aisle to pass legislation that once and for all assures our farmers of permanent bankruptcy protections to help them keep their farms. In the meantime, the House of Representatives should quickly pass the Family Farmer Bankruptcy Relief Act and end the current lapse in basic bankruptcy protections for our family farmers.

OCTOBER 6, 2004.

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: The undersigned organizations urge immediate passage of S. 2864 that reinstates Chapter 12 bankruptcy provisions of our nation's family farmers. Since January 1, 2004 farmers facing serious financial problems resulting from low commodity prices, increasing production costs, and natural disasters have not been able to consider filing a Chapter 12 bankruptcy.

The need for a separate bankruptcy code that enables farmers to stay on the land while reorganizing their debt is as urgent now as it was in 1986 when initially enacted by Congress. This lapse in coverage results in farmers having to face foreclosure and liquidation. Instead, Chapter 12 would offer farmers the opportunity to negotiate with their creditors. This benefits the farm family, their creditors and rural businesses.

Please act quickly. Every day that Congress delays on Chapter 12 has a direct cost to our nation's family farmers and rural communities.

Sincerely,

American Corn Growers Association.
Association of Chapter 12 Trustees.
Community Food Security Coalition.
Family Farm Defenders.
Farm Aid.
Farm Wives United (New York).
Federation of Southern Cooperatives.
Livestock Marketing Association.
National Bankruptcy Conference.
National Catholic Rural Life Conference.
National Family Farm Coalition.
National Farmers Union.
New York Sustainable Agriculture Working Group (NYSAWG).
Northeast States Association for Agricultural Stewardship (NSAAS).
Rural Advancement Foundation International (RAFI–USA).
Rural Coalition/Coalicion Rural.
Southern Sustainable Agriculture Working Group (SSAWG).
Soybean Producers of America.
Women, Food, and Agriculture.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (S. 2864) was read the third time and passed as follows:

S. 2864

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 ''Family Farmer Bankruptcy Relief Act of 2004''.

SEC. 2. EIGHTEEN-MONTH EXTENSION OF PERIOD FOR WHICH CHAPTER 12 OF TITLE 11, UNITED STATES CODE, IS REENACTED.

(a) AMENDMENTS.—Section 149 of title I of division C of Public Law 105–277 (11 U.S.C. 1201 note) is amended—

(1) by striking ''January 1, 2004'' each place that term appears and inserting ''July 1, 2005''; and

(2) in subsection (a)—

(A) by striking ''June 30, 2003'' and inserting ''December 31, 2003''; and

(B) by striking ''July 1, 2003'' and inserting ''January 1, 2004''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) are deemed to have taken effect on January 1, 2004.

NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM REAUTHORIZATION ACT OF 2003

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 771, H.R. 2608.

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

The assistant legislative clerk read as follows:

A bill (H.R. 2608) to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCAIN. Mr. President, I wish to speak in relation to the H.R. 2608, the National Earthquake Hazards Reduction Program Reauthorization Act,

which passed with a substitute amendment by unanimous consent.

Earthquakes are some of the world's most dangerous natural hazards. They can seem to strike with sudden unpredictability, and can affect a large area causing damage miles away from the epicenter. The National Earthquake Hazards Reduction Program, NEHRP, was created in 1977 to conduct basic research about earthquakes and develop strategies, such as stricter building codes, to mitigate the effects of them. The NEHRP program is composed of the Federal Emergency Management Agency, FEMA, in the Department of Homeland Security's Emergency Preparedness and Response, EP&R, Directorate; the National Institute of Standards and Technology, NIST; the U.S. Geological Survey, USGS; and the National Science Foundation, NSF.

The 6.0 magnitude earthquake that struck Parkfield, California last week demonstrated both the dangers of earthquakes and the success of the NEHRP program. Because of the strong building codes and preparations developed by NEHRP and taken by the people of Parkfield, there were no fatalities.

This bill would authorize the NEHRP program from Fiscal Year, FY, 2005 through FY 2009. In addition, it would make a number of reforms to the program, including designating NIST as the program's lead agency and establishing an Interagency Coordinating Committee and an Advisory Committee on Earthquake Hazards Reduction to improve the program's coordination and implementation.

This bill also would require the Director of the Office of Science and Technology Policy to establish a National Windstorm Impact Reduction Program consisting of representatives from NIST, NSF, FEMA, and the National Oceanic and Atmospheric Administration, NOAA. The purpose of this program would be to improve our understanding of windstorms and how they affect our communities. We recently witnessed the devastation to Florida by Hurricanes Charley, Frances, Ivan, and Jeanne. Congress should recognize the importance of windstorm research to develop ways to reduce future damage from hurricanes, tornadoes, and other such phenomena.

Finally, the bill would authorize funding for the Federal Aviation Administration's Office of Commercial Space Transportation from FY 2005 through FY 2009. SpaceShipOne demonstrated yesterday that we are at the beginning of a new age in space travel, in which private citizens will be able to finance, operate, and travel in their own vehicles. It is vital that this office be adequately funded to ensure that the government plays an appropriate oversight role in this promising field.

Mr. President, I thank my colleagues for their support of this legislation, and ask unanimous consent that my statement be printed in the RECORD.

Mr. HOLLINGS. Mr. President, I rise today in support of the substitute amendment to H.R. 2608, the National Earthquake Hazards Reduction Program Reauthorization Act. I fully support this amendment. The first two titles in this substitute amendment were distinct bills, each extremely important to fighting the respective hazard. I want to thank Senator BILL NELSON and Senator HUTCHISON for their work in bring the wind title to the committee's attention.

Earthquakes are deadly natural hazards that arrive without warning and can claim thousands of lives. For example, a 6.6 magnitude earthquake in Iran last year killed 30,000 people, while a similar magnitude quake in California killed two people. Thousands of lives have been saved as a result of the fine research conducted through the National Earthquake Hazards Reduction Program. I support the earthquake title of the substitute amendment, but I want to reiterate that the National Institute of Standards and Technology needs greater funding if it is to fulfill its new role as the lead agency in this program. I hope that my colleagues will see to it that this excellent agency has the resources it needs to continue to develop standards that protect the public.

Building codes work. The hurricanes we've seen in the past month prove that. According to the St. Petersburg Times, houses built before the building codes were revised in 1992, as a result of Hurricane Andrew, were blown off their foundations. Houses built after new building codes were in place are still standing. These disasters cost the country several billion dollars in damage each year. By establishing a national program to improve design and engineering to protect against windstorms, we can save not only money, but more importantly lives.

Mr. NELSON of Florida. Mr. President, I rise today in support of the windstorm impact reduction bill, a bill included in the earthquake bill before the Senate for consideration today. The windstorm bill, supported in the Senate by me and Senator HUTCHISON and by Representatives MOORE and NEUGEBAUER in the House, sets up a national program to reduce the loss of life and property due to windstorms.

It is an understatement to say that the four hurricanes that hit Florida—Hurricanes Charley, Frances, Ivan and Jeanne—in the last 6 weeks demonstrate the great need for this legislation. More than 70 lives were lost, and homes, businesses, roads and bridges were devastated by the hurricanes. It is estimated that the losses from these hurricanes will surpass the $20 billion in losses from Hurricane Andrew in 1992, the costliest hurricane ever.

It is imperative that the amount of destruction suffered by the State of Florida never be repeated again. This bill will give us the tools to protect our communities from future material losses and to reduce human suffering. An interagency working group consisting of representatives of the National Science Foundation, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology and the Federal Emergency Management Agency will be responsible for planning and managing this program.

The program will have three goals: No. 1, improved understanding of windstorms; No. 2, windstorm impact assessment; and No. 3, windstorm impact reduction. We will achieve these goals through data collection and analysis, outreach, technology transfer, and research and development.

As a result of this program, we will translate existing and future information and research findings into cost-effective and affordable practices for design and construction professionals, and State and local officials. And this Interagency group will provide biennial updates of their progress to Congress so we know what progress has been made and what more needs to be done.

We'll also get a broad cross-section of interests involved through an advisory committee—so that real life issues are addressed and on-site expertise is utilized. Any my hope is that the devastation of Hurricanes Charley, Frances, Ivan and Jeanne will never be experienced again in my State of Florida or in any other State.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the McCain substitute amendment which is at the desk be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table with no intervening action or debate; and that any statements related to the bill be printed in the RECORD.

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

The amendment (No. 3983) was agreed to.

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

The bill (H.R. 2608), as amended, was read the third time and passed.

BELARUS DEMOCRACY ACT OF 2003

Mr. MCCONNELL. Mr. President, also I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 854 which is at the desk.

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

The legislative clerk read as follows:

A bill (H.R. 854) to provide for the promotion of democracy, human rights and rule of law in the Republic of Belarus, and for the consolidation and strengthening of Belarus sovereignty and independence.

There being no objection, the Senate proceeded to consider the bill.

Mr. BIDEN. Mr. President, I am today in support of H.R. 854, the Belarus Democracy Act. Alexander Lukashenka, President of Belarus, is the last remaining dictator in Europe. After orchestrating an illegal and unconstitutional referendum in November 1996, enabling him to impose a new

constitution, abolish the duly-elected parliament, and install a largely powerless national assembly, he has progressively abolished the previously existing democracy in that country.

Belarusian authorities under Lukashenka's control have mounted a major systematic crackdown on civil society through the closure, harassment, and repression of non-governmental organizations and independent trade unions. Three leaders of the democratic forces in Belarus—Victor Gonchar, Anatoly Krasovsky, and Yuri Zakharenka—and one critical journalist, Dmitry Zavadsky, have disappeared and are presumed dead. Former Belarus Government officials have made credible allegations, with evidence, that officials of the Lukashenka regime were involved in the disappearances. Lukashenka's administration has repressed freedom of speech and expression, has reversed the revival of Belarusian language and culture, and has harassed religious groups.

The Government of Belarus has made no substantive progress in addressing criteria established in 2000 by the Organization for Security and Cooperation in Europe to end repression and the climate of fear, permit functioning independent media, ensure transparency of the election process, and strengthen the functions of parliament. The campaign for the parliamentary elections to be held October 17 has not been fair. Lukashenka has also added a referendum to the ballot to eliminate term-limits for the presidency so that he can run again in 2006.

H.R. 854, the Belarus Democracy Act, authorizes funds to assist in the observation of elections and the promotion of free and fair electoral processes; the development of democratic political parties; radio and television broadcasting to and within Belarus; the development of non-governmental organizations promoting democracy and supporting human rights; the development of independent media within Belarus and from outside the country; international exchanges and professional training programs for leaders and members of the democratic forces; and other activities consistent with the purposes of the Act.

Like most other legislation, this bill is not perfect. I would have preferred even stronger legislation. In fact, I had prepared such legislation, which I planned to introduce in the form of an amendment to the State Department Authorization legislation if it had reached the Senate floor. My bill would have authorized, with specific numbers, increased funding for the activities described above; would have streamlined and tightened controls on exports to Belarus; and would have imposed visa bans on Lukashenka and his inner circle.

Unfortunately, for unrelated reasons, the State Department Authorization bill has not been brought up, and there is no time in the closing days of the 108th Congress to introduce my legislation as a free-standing bill.

Nonetheless, I strongly support H.R. 854. It makes unmistakably clear to President Lukashenka and his cohorts that the United States strongly disapproves of his brutal authoritarian rule and that we intend to continue to oppose him. Lukashenka is an anachronism in twenty-first century Europe and is surely destined for the ash-heap of history. The Belarus Democracy Act may hasten this process. I urge my colleagues to support H.R. 854.

I thank the Chair and yield the floor.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 854) was read the third time and passed.